

#### COUNCIL AGENDA REPORT

**MEETING DATE: 08/07/06** 

ITEM NO:

DATE:

July 26, 2006

TO:

MAYOR AND TOWN COUNCIL

FROM:

DEBRA J. FIGONE, TOWN MANAGER

SUBJECT:

CONSIDER A REQUEST TO MODIFY A CONDITIONAL USE PERMIT TO INCREASE THE SEATING, ALLOW SPECIAL EVENTS, AND WINE BAR WITH RETAIL SALE ON PROPERTY ZONED C-2. CONDITIONAL USE PERMIT U-06-20 APN 529-03-035. PROPERTY LOCATION: 42 ELM

STREET PROPERTY OWNER: MICHAEL COBLER APPLICANT: BELGHIS

AND FARHAD PROUSHANI

#### RECOMMENDATION:

1. Hold the public hearing and receive public testimony.

2. Close the public hearing.

3. Approve Conditional Use Permit Application U-06-12 (requires motion).

4. Refer to the Town Attorney for the preparation of the appropriate resolution.

#### **BACKGROUND**:

Café Rouge currently operates with a Conditional Use Permit that allows for a 12 seat high turnover/sit-down restaurant that serves beer and wine with meals. The approved hours of operation are from 6:00AM to 1:00AM seven days a week with alcohol service limited to 11:00AM to 11:00PM seven days a week. Please see the Planning Commission Staff Report for a complete description of the existing operation (Attachment 1).

#### PROJECT SUMMARY:

The applicant is requesting approval to modify the Conditional Use Permit for Café Rouge to allow a total of 40 seats, alcohol service without a meal, retail wine sales, wine tasting bar, and special events with alcohol service. The only exterior changes proposed are planters and seats in an existing loading area on the property (Attachment 1, Exhibit I). The proposed hours of operation will remain the same.

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PREPARED BY:	BUD N

DIRECTOR OF COMMUNITY DEVELOPMENT

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Reviewed by: \( \frac{1}{2} \) Assistant Town Manager \( \frac{1}{2} \) Town Attorney

Clerk Administrator \( \frac{1}{2} \) Finance \( \frac{1}{2} \) Community Development

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August 1, 2006

#### **DISCUSSION**:

#### USE

The applicant is requesting to modify their Conditional Use Permit. Please refer to the Planning Commission Staff Report for a complete description of the proposed project (Attachment 1). The applicant believes that the request is similar to the approval granted to the Los Gatos Coffee Roasting Company. The following is a table comparing the applicant's request and the approved conditions of approval for the Los Gatos Coffee Roasting Company (Attachment 6):

	Café Rouge Requests	Los Gatos Coffee Roasting Company Approved Conditions
Uses	Restaurant, Wine Bar, Retail, Entertainment	Coffee Shop, Delicatessen, Wine Bar, Entertainment, and Specialty Food Market.
Hours of Operation	6:00AM to 1:00AM (Seven days/week)	6:00AM to 10:00PM (Seven days/week)
Hours of Alcohol Sales	11:00AM to 11:00PM (Seven days/week)	11:00AM to 9:30PM (Seven days/week)
Entertainment with Alcohol Sales	Yes	No
Retail Sales of Off-Site Alcohol	Yes	Yes
Alcohol Sales Only with Food Sales	No	Yes
Wine tasting	Yes	Yes
Seats	40	52 seats indoor (6 outdoor on benches)
Parking	Does not comply with parking requirements	Complies with parking requirements

#### **PARKING**

The applicant is requesting approval for 40 seats, which require 14 parking spaces. 21 seats are proposed inside and 19 seats are proposed outside. Please see Attachment 1, Exhibit I for the proposed seating plan.

The following table shows the proposed seats, required parking spaces and provided parking spaces for the project site.

August 1, 2006

Use	Square Feet	Required Parking	Parking Provided
Retail	2,423 s.f.	8	8
Personal	1,152 s.f.	4	4
Service			
Café Rouge	40 seats	14	3
TOTAL		26	15

The proposed and existing uses on the project site require 26 parking spaces. Fifteen spaces are provided through the Parking Assessment District. The proposal of 40 seats is not consistent with the Town Parking requirements. Please see the applicant's justification and request for approval of this portion of the application (Attachment 1, Exhibit D). The applicant states that the stores on the subject site do not generate a high volume of traffic and demand for parking. Staff advised the applicant that the proposed project is not consistent with the Town's parking requirements. The Los Gatos Coffee Roasting Company complies with the Town's parking regulations which has a credit of 19 parking spaces through the Parking Assessment District.

#### ALCOHOL SERVICE

The applicant is requesting the ability to serve beer and wine independently from meals. The proposal is not consistent with the Town's Alcohol Policy which discourages stand alone bars or restaurants with separate bars and only allows alcoholic beverages if served with meals. The proposal is not similar to the CUP granted to the Los Gatos Coffee Roasting Company which requires alcohol to be sold with meals.

#### **WINE TASTING BAR**

The applicant is requesting a wine tasting bar which will offer a one ounce serving of wine without food service. Wine tasting will occur during normal alcohol service hours. Wine tasting is allowed with a CUP and was recently approved for the Los Gatos Coffee Roasting Company.

#### RETAIL WINE SALES

The applicant is requesting off-site retail sales of wine. Retail wine sales are allowed with a CUP and were recently approved for the Los Gatos Roasting Company.

#### SPECIAL EVENTS

The applicant is proposing to hold special events with alcohol service. The events will include multi-cultural poetry readings, musical events, and open-mike events and will occur Sundays-Wednesdays (Attachment 1, Exhibit D). Special events were allowed in the CUP for the Los Gatos Coffee Roasting Company but without alcohol service.

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#### LOADING ZONE AND OUTDOOR SEATING AREA

The applicant is requesting to utilize the existing loading zone, located on the property, as an outdoor seating area with landscaping improvements to address public safety concerns and a barrier, approved by the Chief of Police, to address concerns regarding alcohol sales.

#### HOURS OF OPERATION

The applicant is requesting to maintain their existing hours of operation and hours of alcohol service. The approved hours of operation are from 6:00AM to 1:00AM seven days a week with alcohol service limited to 11:00AM to 11:00PM seven days a week. In order to continue alcohol service beyond 10:00PM, the required findings from Section II of the Town's Alcohol Policy must be made (Attachment 1, Exhibit E).

#### APPLICANT INPUT

The applicant submitted a letter on July 20, 2006 reiterating their desire to operate with 40 total seats and Alcohol Beverage Control License Type #41 (Sale of beer and wine for consumption on or off premise for restaurants). Further, in a letter submitted on July 21, 2006, the applicant requested additional changes to the conditions of approval (Attachment 3) to clarify their proposed use (Attachment 5). Staff does not recommend the applicant's requested changes to the conditions of approval. The conditions of approval reflect the recommendations provided by the Planning Commission. If the Town Council wishes to revise the conditions of approval, Staff will return the revised conditions of approval to the Town Council for approval.

#### **TRAFFIC**

The proposed increase from 12 to 40 seats will result in a net increase of 96.6 Additional Daily Trips (ADT) and 8.4 PM peak hour trips, which will require a finding of Community Benefit and a Traffic Impact Mitigation Fee. If the project is approved without an increase in seats, the Community Benefit and Traffic Impact Mitigation Fee are not required.

#### GENERAL PLAN CONFORMANCE

The parcel is designated as Central Business District on the General Plan which allows for community oriented goods and services while maintaining a small town character. The following sections of the General Plan are relevant to the proposed application:

L.P.1.3 - Encourage economic and social activity consistent with a small-scale, small town atmosphere and image.

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- L.P.5.1 Maintain a variety of commercial uses (a strong downtown commercial area combined with Los Gatos Blvd and strong neighborhood commercial centers) to meet the shopping needs of residents and to preserve the small-town atmosphere.
- L.P.5.2 Encourage a mix of retail, office and professional uses in commercial areas, except in the Central Business District where retail should be emphasized.
- L.P.5.5 Encourage the development and retention of locally-owned stores and shops.
- L.G.6.2 Preserve downtown Los Gatos as the historic center of the Town with goods and services for local residents while maintaining the existing Town identity, environment and commercial viability.

#### PLANNING COMMISSION DISCUSSION:

On June 28, 2006 the Planning Commission heard public testimony and discussed the issues regarding the proposed project.

The Planning Commission recommended approval of two aspects of this application. The Planning Commission only recommended approval of wine tasting and retail sales of alcohol for off-site consumption. The recommended hours when these activities may occur are from 11:00 AM to 10:00 PM, seven days a week. All other requested uses were not recommended because they conflict with the Town's Alcohol Policy and current zoning regulations.

#### **ALTERNATIVES:**

The following alternative actions are available to the Town Council:

- 1. Concur with the Planning Commission's recommendations and approve the CUP with the conditions included as Attachment 3.
- 2. Modify or delete any of the proposed uses to address Council concerns.
- 3. Modify the hours of operation for the business and/or the special events.
- 4. Require specific portions of the proposed CUP to expire after one or two years. The applicant would be required to obtain an extension to the Town Council for consideration. There will be a fee associated with this process.

#### **CONCLUSION:**

The Town Council should review the Planning Commission's recommendation and determine if the proposed use is consistent with the General Plan, Zoning Code, and Town's Alcohol Policy. Pursuant to the Town's Alcohol Policy, the Town Council has the authority to take final action on this application upon consideration of a recommendation from the Planning Commission.

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#### ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

FISCAL IMPACT: None

#### ATTACHMENTS:

- 1. Staff report to the Planning Commission dated June 23, 2006 and Desk Item to the Planning Commission dated June 28, 2006.
- 2. Required Findings and Considerations (1 page)
- 3. Recommended Conditions of Approval (3 pages)
- 4. Letter from Applicant dated July 20, 2006 (2 pages)
- 5. Letter from Applicant dated July 21, 2006 (1 page)
- 6. Town Council Resolution 2006-072 to approve Conditional Use Permit U-06-12 for the Los Gatos Roasting Company (7 pages)
- 7. Verbatim Meeting Minutes from Planning Commission for June 28, 2006 (13 pages)

#### Distribution:

Belghis & Farhad Proushani, 42 Elm St., Los Gatos, CA 95030 Michael Cobler, 900 E. Campbell Ave., Campbell, CA 95008

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Date:	June 23, 2006	
For Agenda Of:	June 28, 2006	
Agenda Item:	3	

REPORT TO:

The Planning Commission

FROM:

The Development Review Committee

LOCATION:

42 Elm Street

Conditional Use Permit U-06-20

Requesting approval to modify a conditional use permit to increase the seating, allow special events, and wine bar with retail wine sale on property zoned C-2.

APN 529-03-035.

PROPERTY OWNER: Michael Cobler APPLICANT: Belghis and Farhad Proushani

DEEMED COMPLETE: May 18, 2006

FINAL DATE TO TAKE ACTION BY: November 18, 2006

FINDINGS:

- As required by Section 29.20.190 of the Town Code for the granting of a Conditional Use Permit
- As required by Section IV.B of the Redevelopment Plan for the Central Los Gatos Redevelopment Project that it meets the use set forth in the Town's General Plan.
- It has been determined that the project is Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.
- As required by the Town's Alcohol Policy to serve alcoholic beverages past 10:00 P.M

**EXHIBITS:** 

- A. Required Findings (1 page)
- B. Existing Conditions of Approval for 42 Elm St.
- C. Recommended Conditions of Approval (3 pages)
- D. Letter of Justification, Project Description(6 pages), received May 2, May 11 and May 18, 2006
- E. Town's Alcoholic Beverage Policy, Resolution 2001-106, (4 pages)
- F. Letter from Los Gatos Wine Company, (1 page) received May 5, 2006
- G. Letter from Santa Cruz Mountains Winegrowers Association (5 pages), received on May 8, 2006
- H. Letter from Muccigrosso Vineyards May 11, 2006 (1 page), received on May 5, 2006
- I. Floor Plan, received May 11, 2006

RECOMMENDATION SUMMARY:

Forward a recommendation to Town Council

The Planning Commission - Page 2 42 Elm St. U-06-20 June 28, 2006

#### A. BACKGROUND:

The applicant is requesting approval to modify the existing conditional use permit (CUP) for Café Rouge located at 42 Elm St. Please see Exhibit B for the existing conditions of approval. The current CUP allows a 12 seat restaurant that offers beer and wine with meals. Café Rouge is one of three businesses located on the project site. The other two uses are retail and personal service businesses.

It should be noted that the Town has contacted the applicants on several occasions regarding violations to their CUP. In 2004, staff contacted the applicant and informed them that the loading area had to be kept clear and the maximum number of seats is 12. In March of 2006, staff responded to reports that Café Rouge may be conducting a wine tasting bar. The Town's Code Compliance Officer contacted the applicant and advised them that wine tasting is in violation of their CUP. On April 17 and 20, 2006, the Town received two complaints from the public regarding Café Rouge. One person claimed that Café Rouge was selling alcohol without meals and the other claimed that Café Rouge was selling wine by the bottle for off-site consumption. Staff immediately informed the applicant that these activities violate their CUP. The applicant has since stopped retail sale of wine and serving alcohol without meals and filed for the subject CUP.

#### B. PROJECT SUMMARY:

The applicant is requesting approval to modify the existing CUP to allow additional seats, service of alcohol without a meal, retail wine sales, wine tasting bar and special events with alcohol service. There are no plans to revise the exterior of the building. The only exterior change proposed are the planter boxes that separate the outdoor seating area from the public area. The following chart is a summary of the proposal and whether it meets the Town Code requirements.

Proposed Use	Consistency with Town Code
Restaurant Use	CUP Required
Hours of Operation: 6:00 AM to 1:00 AM, seven days a week	CUP Required
Hours of Alcohol Service: 11:00 AM to 11:00 PM, seven days a week	CUP Required (additional findings required as part of Town's Alcohol Policy)
Wine tasting bar	CUP Required
Retail wine sales	CUP Required
Service of beer and wine without serving a meal	Not consistent with Town's Alcohol Policy

Special Events including cultural events, barbeques, art exhibitions and music events (Sundays through Wednesdays) with alcohol service.	Not consistent with Town's Alcohol Policy
40 Seats (indoor and out)	Not consistent with parking requirements

#### C. REMARKS

#### 1. Additional Seats and Parking Requirements

The applicant is requesting approval for 40 seats, which require 14 parking spaces. 21 seats are proposed inside and 19 seats are proposed outside. Please see Exhibit I for the proposed seating plan.

The following table shows the proposed seats, required parking spaces and provided parking spaces for the project site.

Use	Square	Required	Parking
	Feet	Parking	Provided
Retail	2,423 s.f.	8	. 8
Personal	1,152 s.f.	4	4
Service			
Café Rouge	40 seats	14	3 .
TOTAL		26	15

The proposed and existing uses on the project site requires 26 parking spaces. Fifteen spaces are provided through the Parking Assessment District. The proposal of 40 seats is not consistent with the Town Parking requirements. Please see the applicant's justification and request for approval of this portion of the application (Exhibit D). The applicant states that the stores on the subject site do not generate a high volume of traffic and demand for parking. Staff advised the applicant that the proposed project is not consistent with the Town's parking requirements.

#### 2. Hours of Operation

The applicant is not proposing a change in the hours of operation. They are proposing to hold special events during the existing hours of operation, limited to Sundays through Wednesdays. The existing hours of operation are as follows:

- Hours of Operation: 6:00 AM to 1:00 AM, seven days a week
- Hours of Alcohol Service: 11:00 AM to 11:00 PM, seven days a week
- Special Events limited to Sundays through Wednesdays during hours of operation and hours of alcohol service

The Town's Alcohol Policy requires the following findings for alcohol service past 10:00 PM:

- A. Late night service will not adversely impact adjacent residential neighborhoods.
- B. The applicant does not have a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy.
- C. The applicant has demonstrated a clear benefit to the community.

The applicant has a history of violations and complaints regarding number of seats and alcohol service. They have violated their CUP and the Town's Alcohol Policy on several occasions and continue to advertise as a wine bar.

#### 3. Alcohol Service

#### Stand Alone Alcohol Service.

The applicant is proposing to serve alcohol without a meal. The applicant explains that they would like to utilize their existing Alcohol Beverage Control (ABC) license to its full extent and serve beer and wine independently from meals. The applicant will continue to offer meals as part of their restaurant. Please see Exhibit D, for the applicant's justification of this proposal.

The Town's Alcohol Policy (Exhibit E) states the following:

- 1. Town shall continue to strongly discourage new applications for stand alone bars or restaurant with separate bars.
- 2. Alcoholic beverages may only be served with meals.

The applicant's proposal for alcohol service without food service is inconsistent with the Town's Alcohol Policy. A restaurant that serves alcohol independently of a meal could potentially operate much like a bar, which is strongly discouraged by the Policy. This aspect of the proposal differs from the approved CUP that the Los Gatos Coffee Roasting Company obtained recently. The Los Gatos Coffee Roasting Company will be serving wine with meals only.

#### Wine Tasting.

The applicant proposes to operate a wine tasting bar. They would offer one ounce servings at the bar and would not serve food with the tasting. The applicant proposes to offer wine tasting during the allowed hours of alcohol service. Wine tasting is allowed with the approval of a CUP.

The Planning Commission - Page 5 42 Elm St. U-06-20 June 28, 2006

#### Retail Alcohol Sales.

The applicant proposes retail alcohol sales, providing a selection of wine for sale for off-site consumption. The applicant plans to display their wines in a wine rack located near the bar. Café Rouge will focus on locals wine, but would like to have the option to sell imported wines as well. Please see Exhibit D for an explanation of this aspect of the proposal. The Town has received letter from three local wineries in support of the proposal (Exhibit F, G and H). The Los Gatos Coffee Roasting Company's retail sale of wine is part of a small grocery store operation. Another similar retail wine sale operation is Café Marcella, where they have a separate retail wine room to display their wines.

#### Alcohol Service During Events.

The applicant would like to serve alcohol during their proposed events. These events may include artists' receptions, poetry readings and cultural events. Please see the applicant's justification letter (Exhibit D) for a description The Town's Alcohol Policy does not specifically regulate events, but entertainment is addressed in the Policy.

Based on the justification letter from the applicant, some of the proposed events are considered entertainment and that aspect of the application is inconsistent with the Town's Alcohol Policy. The Policy states:

- 1. Town shall continue to discourage applications for entertainment establishments serving alcoholic beverages.
- 2. Entertainment in association with an eating or drinking establishment may be allowed if standards and a permit process are adopted. (An entertainment permit process has not been adopted)

The CUP for the Los Gatos Coffee Roasting Company requires that no alcohol be served during their events, with the exception of their private holiday party, which is not subject to the Town's Alcohol Policy, but is regulated by the CUP.

#### 4. Traffic

Due to the increase in the number of proposed seats, there will be a net increase of 96.6 Additional Daily Trips (ADT) and 8.4 PM peak hour trips. Uses that generate more than five peak hour trips require that the applicant justify the projects community benefit. The applicant has addressed this issue in the letter of justification (Exhibit D). However, if the increase in seats is not approved, then community benefit is not required. The traffic impact is considered minor according to the Town's Traffic Impact Policy, and a traffic study is not required. The payment of a Traffic Impact Mitigation Fee is required as a condition of approval.

#### 5. Loading Zone and Outdoor Seating Area

The proposed outdoor seating area at the southeast corner of the site is currently a loading area for the entire building. The applicant is requesting that this loading area be removed to allow for the proposed seating area that would be improved with planters to separate the seating area from the public space (Exhibit I).

The existing loading area was installed to serve the merchants at the subject site. It is currently improved with a handicap ramp and a curb behind the sidewalk that serves as a driveway approach. The space is not separated from the sidewalk and the parking lot and pedestrians often walk through this area.

Since the proposal of 40 seats is inconsistent with the Town Code, it is unlikely that this loading space can be converted into a seating area. Therefore, the Planning Commission should consider one of the following options for this area.

- A. Require this space to improved as a landscaped area perhaps with potted plants and safely separated from the sidewalk and parking lot. Restaurant seating will not be allowed in this area.
- B. Require that the loading space be safely separated from the sidewalk and parking lot.

Even though it is unlikely that this loading space can be converted into a seating area, it may be helpful to understand the requirements of outdoor alcohol service. The Town's Alcohol Policy requires that adequate separation be provided between outdoor seating area and public areas when alcohol is served. To comply with the policy, the applicant has proposed to locate planters along the perimeter of the seating area to separate the area from the sidewalk. The design must be approved by the Chief of Police prior to installation. The separation shall clearly suggest that alcohol is not allowed outside the restaurant seating area as determined by the Chief of Police. Any landscaping area will be reviewed and approved by the Director of Public Works to ensure proper separation between the landscaped area, loading zone and pedestrian ramp. The applicant will be available to answer any questions relating to the details of the planters as specifications were not included in the plans.

#### 6. General Plan Conformance

The General Plan designation for the parcel is Central Business District Zone, which allows for community oriented goods and services, while maintaining a small town character. The following sections of the General Plan are relevant to the proposed application:

L.P.1.3 - Encourage economic and social activity consistent with a small-scale, small town atmosphere and image.

- L.P.5.1 Maintain a variety of commercial uses (a strong downtown commercial area combined with Los Gatos Blvd and strong neighborhood commercial centers) to meet the shopping needs of residents and to preserve the small-town atmosphere.
- L.P.5.2 Encourage a mix of retail, office and professional uses in commercial areas, except in the Central Business District where retail should be emphasized.
- L.P.5.5 Encourage the development and retention of locally-owned stores and shops.
- L.G.6.2 Preserve downtown Los Gatos as the historic center of the Town with goods and services for local residents while maintaining the existing Town identity, environment and commercial viability.

#### D. CONCLUSION:

Staff finds that the proposal of 40 seats, service of alcohol without a meal, alcohol service with entertainment and service of alcohol after 10:00 PM are inconsistent with the Town's Alcohol Policy. Staff is concerned with the applicant's history of violations of their CUP, which is inconsistent with the required findings of alcohol service past 10:00 PM. The proposed retail alcohol sales also cause concern as it may change the character of the restaurant. If the Commission is inclined to recommend approval for the wine tasting, it should make the findings as stated in Exhibit A and make a recommendation to the Town Council.

#### E. RECOMMENDATION:

Pursuant to the Town's Alcohol Policy, this matter must be referred to Town Council with a recommendation from the Planning Commission.

If the Planning Commission finds merit with the proposal, it should:

- 1. Make the required findings (Exhibit A),
- 2. Recommend approval of the application to Council, subject to conditions (Exhibit C).

# The Planning Commission - Page 8 42 Elm St. U-06-20 June 28, 2006

If the Commission has concerns with the application, it can:

- 1. Recommend approval of the application to Council with additional and/or modified conditions of approval, or
- 2. Deny the application.

Prepared by:

Judie Gilli, Assistant Planner

Approved by:

Bud N. Lortz,

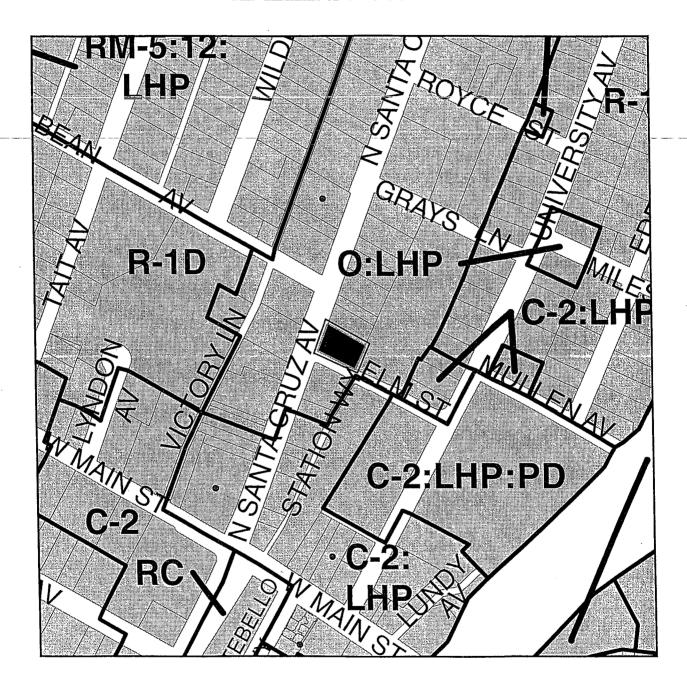
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# **42 Elm Street**



#### REQUIRED FINDINGS FOR

42 Elm Street
Conditional Use Permit U-06-20

Requesting approval to modify a conditional use permit to increase the seating, allow special events, and wine bar with retail wine sale on property zoned C-2. APN 529-03-035.

PROPERTY OWNER: Michael Cobler APPLICANT: Belghis and Farhad Proushani

#### **FINDINGS**

- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.
  - (a) The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of the Town Code if it finds that:
    - (1) The proposed uses of the property are essential or desirable to the public convenience or welfare;
    - (2) The proposed uses will not impair the integrity and character of the zone;
    - (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
    - (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.
- The Town's Alcohol Policy requires the following findings for alcohol service past 10:00 PM:
  - A. Late night service will not adversely impact adjacent residential neighborhoods.
  - B. The applicant does not have a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy.
  - C. The applicant has demonstrated a clear benefit to the community.
- That the proposed porject is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

#### ELM STREET, 42/U-00-26. (00.05)

Requesting approval to modify a conditional use permit to serve beer and wine with meals on property zoned C-2. PROPERTY OWNER: Creamery II Investors LLC. APPLICANT: Farhad and Belghis Proushani. Continued from October 25, 2000.

Commissioner Lyon stated that he has listened to the tapes, reviewed the Minutes and is qualified to participate in this matter.

Motion by Chair Bruno, seconded by Commissioner Lyon to approve 42 Elm Street with the following conditions and findings.

#### CONDITIONS

42 Elm St.

Conditional Use Permit U-00-26

Requesting approval for modification of the Conditional Use Permit to serve beer and wine at the property zoned C-2.

PROPERTY OWNER: Creamery II Investors, LLC APPLICANT: Farhad and Belghis Proushani

TO THE SATISFACTION OF THE PLANNING DIRECTOR:

#### (Planning Section)

- 1. NUMBER OF SEATS. The number of seats shall not exceed 12 total, including both indoor and outdoor seating.
- 2. HOURS OF ALCOHOLIC BEVERAGE SERVICE. The maximum hours of alcoholic beverage service shall be from 11am-till 11pm seven days a week.
- 3. HOURS OF OPERATION. The maximum hours of operation shall be from 6:00am to 1:00am seven days a week.
- 4. HOLD HARMLESS. A hold harmless agreement shall be recorded releasing the Town from any liability relating to the outdoor seating.
- 5. TAKE OUT. Take out food shall be served in recycled material containers.
- 6. UTENSILS. All beverages and food served on site shall be served on reusable materials.
- 7. TRASH. Operators of the restaurant shall pick up trash in the vicinity of the restaurant when outdoor seating is available.
- 8. LAPSE FOR DISCONTINUANCE. If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses.

#### TO THE SATISFACTION OF THE CHIEF OF POLICE:

9. ALCOHOLIC BEVERAGES: Beer and wine may be served only with meals at the restaurant. No beer or wine may leave the premises. A meal is be defined as a combination of food items selected from a menu which would constitute a normally accepted meal (breakfast, lunch, dinner, or brunch).

10. ALCOHOLIC BEVERAGE SERVICE: Beer and wine may be served with meals in the outside patio area as long as there is a barrier or fencing, 3 feet in height surrounding the patio area and separating it from the sidewalk. The barrier or fencing may be a combination of fencing and shrubbery to equal 3 feet. A hostess shall be stationed at the patio entrance at all times.

#### FINDINGS

As required by Section 29.20.190 of the Town Code for the granting of a Conditional Use Permit, the Commission finds:

- 2. The proposed use will not impair the integrity and character of the zone in that the proposed modification is permitted in the zone district.
- 3. The proposed use would not be detrimental to public health, safety or general welfare in that conditions are being added to regulate the hours of operation and alcoholic beverage service.
- 4. The proposed uses of the property are in harmony with the various elements or objectives of the general plan and the purposes of the Town code.

As required by Town council Resolution 1994-29 for policies regulating the sale of alcoholic beverages the Commission finds:

1. The applicant does not have a history of complaints.

Carried unanimously.

Conditions of Approval 42 Elm Street Conditional Use Permit U-06-20 Page 1

#### RECOMMENDED CONDITIONS OF APPROVAL FOR:

42 Elm Street

Conditional Use Permit U-06-20

Requesting approval to modify a conditional use permit to increase the seating, allow special events, and wine bar with retail wine sale on property zoned C-2. APN 529-03-035.

PROPERTY OWNER: Michael Cobler

APPLICANT: Belghis and Farhad Proushani

#### TO THE SATISFACTION OF THE PLANNING DIRECTOR:

(Planning Section)

- 1. CONDITIONS: These conditions of approval shall supercede all previously adopted conditions.
- 2. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit I in the report to the Planning Commission. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development or the Planning Commission, depending on the scope of the changes.
- 3. LAPSE FOR DISCONTINUANCE: If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses.
- 4. USE: The approved use is a restaurant.
- 5. NUMBER OF SEATS: The maximum number of seats for the restaurant shall not exceed 12 seats, indoor and out.
- 6. HOURS OF OPERATION: Maximum hours of operation for the restaurant shall be 6:00 a.m. to 1:00 a.m. seven days a week. Alcohol service shall be limited to 11:00 AM to 10:00 PM, seven days a week.
- 7. ALCOHOL SALES: The service of wine by the glass for the restaurant is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals. Retail sale of alcohol for off-site consumption is not permitted.
- 8. WINE TASTING: Wine tasting is permitted. The maximum sample size for the tasting shall not exceed one ounce.
- 9. OUTDOOR AREA: The design of improvements to the outdoor area must be approved by the Chief of Police and Director of Public Works prior to installation. The Chief Of Police will review the proposal for public safety. The Director of Public Works will review the proposal for proper separation between landscaped areas, loading zone (if it remains) and pedestrian ramp.
- 10. HOLD HARMLESS: A hold harmless agreement shall be recorded releasing the Town from any liability relating to the outdoor seating.
- 11. TAKE OUT: Take out food shall be served in recycled material containers.
- 12. UTENSILS: All beverages and food served on site shall be served on reusable materials.

Conditions of Approval 42 Elm Street Conditional Use Permit U-06-20 Page 2

- 13. TRASH: Operators of the restaurant shall pick up trash in the vicinity of the restaurant when outdoor seating is available.
- 14. SPECIAL EVENTS: Wine tasting lectures, community meetings and private (invitation only) events are allowed. These events are limited to once a month and during hours of operation. Alcohol service and entertainment is not permitted during these events.
- 15. PROHIBITED: Service of alcohol without a meal, retail sale of alcohol for off-site consumption, entertainment and outdoor barbeques are not allowed.

# TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS: (Engineering Division)

- 16. TRAFFIC IMPACT MITIGATION FEE. The developer shall pay a proportional to the project's share of transportation improvement needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the conditional use permit is issued. The fee shall be paid within 30-days of issuance of the conditional use permit. The traffic impact mitigation fee for this project, using the current fee schedule and the preliminary plans is \$8,114.40. The final fee shall be calculated from the final plans using the rate schedule in effect at the time the conditional use permit is issued, using a trip generation rate based on high turnover restaurant use. The preliminary fee is based on an increase from 12 seats to 40 seats. The additional 28 seats increase daily average daily traffic by 135.2 trips, and the PM peak hour traffic increases by 11.8 trips.
- 17. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
- 18. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
- 19. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
- 20. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
- 21. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of

Conditions of Approval 42 Elm Street Conditional Use Permit U-06-20 Page 3

developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

- 22. SANITARY SEWER LATERAL. Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.
- 23. SANITARY SEWER BACKWATER VALVE. Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided within 30 days of issuance of a certificate of occupancy.
- 24. OUTDOOR TRASH ENCLOSURES. Within 60 days of issuance of a conditional use permit, outdoor trash enclosures shall be covered and area drains connected to the sanitary sewer system shall be provided within the enclosure.
- 25. GREASE TRAPS. Meet all requirement of the Santa Clara County Health Department and West Valley Sanitation District for the interception, separation or pretreatment of effluent.
- 26. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

Café Rouse

42 Elm Street Los Gatos California 95030



May 2, 2006

Planning Commission of the Town of Los Gatos Los Gatos, Ca.

Hand delivered

Ladies and Gentlemen:

Re: Modification to the use permit for Café Rouge

We have owned and operated Café Rouge at the same location in Los Gatos for 11 years now. About six years ago, the Town was kind enough to grant us permission to use our ABC beer and wine license (license #41), although with restrictions limiting that use. The purpose of this letter is to request that the Town withdraw those restrictions. We also ask that the Café be permitted

- to expand to 40 seats, including inside and outside seating;
- to allow our ABC license #41 be fully implemented under its terms, thus permitting us to sell customers a glass of wine or beer without requiring the purchase of food, and permitting us to sell bottles of wine;
- to hold multi-cultural poetry readings and musical events once a month, only from Sunday evening through Wednesday;
- to hold open-mike events once a month, only from Sunday evening through Wednesday;
- to hold wine tasting and wine recognition sessions and classes once a month, only from Sunday evening through Wednesday;
- to impose a cover charge for special events,
- to hold a weekly outside barbeque, only from Sunday evening through Wednesday and
- to rent out its premises to small groups for special occasions, on occasions not more than four times per year.

We are making this request for modification now for a number of reasons. First of all, we have operated the Café for a significant amount of time, and by now we believe the Town is familiar with the type of business operation we maintain. This is our only location. We run it and control it, and we are here every day doing so. Our clientele are not rowdy, and over-indulgence has never been an issue at the Café; our customers tend

to be local residents over the age of 30. However, we also always provide complimentary non-alcoholic drinks to designated drivers.

Secondly, about six months ago, we had the idea of specializing in serving wines of the Santa Cruz Mountains each evening. This idea has had some success, and has allowed us to stay in business, but is limited by our number of seats, and the requirement that food be served with the wine. Our idea is about to be further limited by the entry into this niche of the Los Gatos Roasting Company, which is a much larger business than we are. If the Roasting Company is permitted to enter this area, we cannot hope to compete without a change to our business.

The Town seems to be a weekend destination for many people, but by the changes we request to our permit, we hope to be a part of an effort to encourage people to see our Town as a destination for the evenings from Sunday through Wednesday as well. Santana Row is very strong competition for our area. We want to add flavors and values which are unique to Los Gatos. The above requested changes to our use permit will allow Café Rouge to compete, in our small way, with out-of-town, as well as in-town destinations. In the face of what seems to us a very weak, and continuing, economy, these changes to our permit are vital to our continued operation. We ask for your most serious consideration for this request.

If you should have any questions concerning any aspect of our requested changes or the implementation plans for those changes, please contact us at the Café (395-1599) or in person and we will be glad to talk.

Very truly yours, B- March

Belghis and Farhad Proushani

May 11, 2006

Supplement to the Letter of Justification dated 05/02/06.

RECUEVED

MAY 1 1 2006

Hand delivered

TOWN OF LOS GATOS
PLANNING DIVISION

Ladies and Gentlemen:

About 40 years ago, a total of 15 parking spot were assigned to the retail stores in this building.

16 years ago, the status of 42 Elm Street, which was retail, changed to a restaurant. Therefore we would like to request the town to consider increasing the parking spaces assigned to Cafe Rouge, as the need of the business requires additional seating. Besides, according to the owners of the exclusive retail stores, in this location, they are not a destination for high traffic volume.

Furthermore, over one year ago, we lost our access to our loading space, due to the fact that the town constructed a handicap ramp (please refer to attached plans and pictures). Therefore we would like to request the permit to alter this space, for additional seating to capture the panoramic scene of the beautiful Santa Cruz Mountains hills.

Very Truly Yours

Belghis and Farhad Proushani

B. Frank

May 18th 2006

Supplement to the letter of justification dated 5/2/06

Hand Delivered

Ladies and Gentlemen:



As of 1995 we had approximately 40 seats in our cafe, inside and outside. We reduced the number of the seats to 12 prior to submitting our application for conditional use permit. The cafe looks empty with the impression that the place is closing and we are loosing business. Tables, chairs and umbrellas are the first impression, which attracts people to an eating place. 90% of our business is supported by foot traffic, if for any reason town is not busy we almost have no business. To legalize the increase of number of our seat will not have any effect on the traffic since we had the experience for the last ten years. The fact is that 16 years ago, conditional use for 42 Elm Street changed from a retail store to a restaurant with no consideration of the need of the extra parking spaces. There are 15 parking spaces available for our building, the exclusive shops in this building are not a destination of a high volume traffic in the town, we believe with discretion of the town management the allowance for the only eating place in this building could be reviewed and altered to the needs of the cafe, which is 40 seats. Also the cafe could use other shops allowances after the closing hour (6 p.m. daily).

To implement our beer and wine license #41 fully

Since year 2000 we have been serving beer and wine with no complaints, no disturbance and no nuisance violations. We will have food available during our business hours and will encourage our customers to purchase food with their drinks, but we should not force them to do so, specially before and after the eating hours when they come late afternoon or early evening for a glass of wine or beer, which discourage them to stay or revisit our place in future. As a matter of fact we are forcing our customer with this manner recently. The result is that we are loosing business and we are receiving lots of complaints and negative comments about our business and our town.

Wine tasting and wine recognition classes are vital to promote the sale and appreciation of the community to the magnificent quality of the Santa Cruz Mountains wines which has been our line of business since December 2005.

Our effort has been to operate a cultural cafe since 1993. By promoting local artists, art exhibitions, local musicians and poetry reading. Also to explore other minority's culture of poetry, music and art through special events. This is what we have done and would like to improve further. We see cultural events different than entertainment. Serving wine during cultural events or the artist's receptions, is a complement to relaxation and enjoyment...different than serving wine in the bar which could encourage otherwise (other than wisdom)

To impose a cover charge during special events, is something that comfort and Practicality for holding these events.

Occasional BBQ is something new and happy events that because of our location being at The side of the parking lot not in main street, gives this opportunity to bring some joy and Add some flavor into the town.

To have our space available for some special events to small group is affordable and appreciated by the community and the visitors of the town. The cafe is very European and unique place (One of the kind in the area).

The hour of our business would be within of our permit as is required.

We try to carry on with our events during the days and times that town is quiet anyway (Sunday through Wednesday), which has no effect on high traffic.

We have been struggling to do business in the town for the last 11 years, last three years We have been in business on borrowed money. Our determination of serving the Community and the visitors of the town is so strong that as an qualified architect, fashion Designer and stylist, we still have a vision of success in working with public by serving and promoting cultural events. We believe with the town management, positive consideration and discretion, we will be able to stay in business and walk the path of success and keep the spirit of Los Gatos up.

#### Finally...

We strongly believe that our loading area, is not safe and sound after the town constructed the handicap ramp. Therefore we suggest to use this space for seating that is the best and the only location in the town with the view of the beautiful Los Gatos Hills that surrounds our unique town and give a chance to the community and the visitors to capture the view of the hills that are bedding the wineries which we serve their wine in our cafe. If the town decides otherwise, cafe rouge and the owner of the property would like to sign off liability of any injury if occur in future (by climbing over the disabled ramp to use the space for loading). To confirm our concern about safety in the town, we would like to meet on sight with one of the town's engineer to express our views more clearly and more efficiently.

Very Truly Yours,

Farhad and Belghie Proushani

B- Moure

## POLICY REGULATING THE CONSUMPTION AND SERVICE OF ALCOHOLIC BEVERAGES

#### I. Purpose

The consumption or service of alcoholic beverages, if not regulated, can jeopardize public safety, result in an increase of calls for police services and compromise the quality of life for Town residents. This policy provides parameters for alcoholic beverage service, particularly addressing late night service when alcohol related incidents are most likely to occur and when the disturbances to Town residents is least tolerable.

The service of alcoholic beverages, with or without meals, past 10 PM is a discretionary privilege to be determined on a case by case basis. The following provisions are intended to balance the protection of residential neighborhoods in close proximity to commercial districts and still maintain the viability of our commercial centers in which restaurants have an essential role. Hours of operation may be regulated based on an establishment's proximity to residential neighborhoods or schools, the concentration of establishments in an area serving alcoholic beverages or for other reasons that may arise at the public hearing.

The deciding body may approve a conditional use permit to serve alcoholic beverages based on the merits of the application and subject to the following requirements:

#### II. General policy

- 1. The Town shall continue to **strongly** discourage new applications for stand alone bars or restaurants with separate bars.
- 2. The Town shall continue to discourage applications for entertainment establishments serving alcoholic beverages.
- 3. Entertainment in association with an eating or drinking establishment may be allowed if standards and a permit process are adopted.
- 4. Alcoholic beverage service for new conditional use permit applications or applications for modification of a conditional use permit shall not be allowed:
  - A. After 11 PM Sunday through Thursday, except for holidays and evenings before holidays.
  - B. After 1 AM Friday, Saturday, holidays or evenings before holidays.

An existing establishment with a conditional use permit in good standing allowed to serve alcoholic beverages past the hours stated above may continue to operate under their existing hours of operation.

Town of Los Gatos Alcoholic Beverage Policy Page 3 of 4

#### III. Specific Policy

1. Restaurants:

Alcoholic beverages may only be served with meals.

2. Restaurants With Separate Bars:

Alcoholic beverage service is permitted in the dining area only in conjunction with meal service. Meal service shall be available until closing or 11 PM Sunday through Thursday and until 12 midnight Friday, Saturday, holidays and evenings before holidays, whichever is earlier, if late night bar service is available. Specific hours of operation for each establishment are determined upon issuance of a conditional use permit.

#### IV. Review Process

- 1. Proposals for new bars or restaurants with bars and all requests for new alcohol service or a change to existing service shall be reviewed by the Planning Commission. The Commission will make a recommendation to the Town Council and the Council shall have final review authority.
- 2. Changes in ownership for businesses involving service of alcoholic beverages shall be reviewed by the Community Development Department. The following process will be followed:
  - a. The Director of Community Development shall contact the new business owner to make them aware of the conditions of approval attached to the Use Permit for the location.
  - b. One year following issuance of a business license, surrounding/impacted property owners shall be notified and any comments regarding the operation of the business shall be solicited.
  - c. If the Director of Community Development becomes aware of any alcohol related impacts on the surrounding neighborhood, the Director shall review the operation of the business to determine whether there is a violation of the use permit.

Los Gatos Wine Company

May 2, 2006

Los Gatos Town Council

MAY - 5 2006 TOWN OF LOS GATOS PLANNING DIVISION

Dear Friends,

My company, Los Gatos Wine Company, is a newly established business in Los Gatos. I just began selling my product last month, and Michael Funari at Café Rouge was one of the first wine merchants to offer my premium wines to the public.

Since I am a new winemaker in the area, local wine merchants are the best way to introduce my wines. An since I am located in Los Gatos, Café Rouge is among the best places to feature my wine for sale.

Café Rouge is not a typical bar or beer joint, but a classy place to enjoy a glass of locally produced wine, to discover a bottle that is not available elsewhere. It's a great place to go after a movie or a nice dinner downtown.

It is so hard for the independent business person to succeed, and they need all the support they can get. Please support what Michael is doing.

Sincerely,

Frank Ashton

16393 Bonnie Lane Los Gatos, CA 95032 (408) 358-8028 Fax (408) 358-1690

Ahlgren Vinevard Alexander Cellars Alfaro Family Vineyards & Winery Andersen Vineyards Aptos Vineyard \ptos Creek Vineyard largetto Winery leauregard Vineyards lig Basin Vineyard lonny Doon Vineyard jurrell School Vineyards yington Winery & Vineyard haine d'Or Vineyards innabar Vineyards & Winery Jos LaChance Wines los Tita coper-Garrod Vineyards ordon Creek avid Bruce Winery xoniur llom Ranch Vineyards rnwood Cellars eming Jenkins Vineyards merosa Winery enwood Oaks Winery Illcrest Vinevards inter Hill Vineyard & Winery thryn Kennedy Winery ngs Mountain Winery Rusticana Vineyards ma Prieta Winery nen & Jocelyn Wines rtin Ranch Winery Henry Vineyard chael Martella Wines unt Eden Vineyards ccigrosse Vineyards al Vineyard ımanın Vineyards ester Winery Organic Wine Works calis . M Staiger e Mill Winery

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#### Award of Merit

Café Rouge has received this Award of Merit for a Wine Selection that features wines of the Sunta Cruz Mountains.

The Santa Cruz Mountains wine grape rowing district extends from Half Moon Bay in the north to Mount Madonna in the south and includes over 40 wineries in three counties.

In the late eighteen hundreds, wines produced from Santa Cruz Mountains grapes were famous for their quality and were winning medals in Europe. Grapes grown in the cooler climates and rugged soils of the coastal mountains grow more slowly and in smaller quantities. This leads to more concentrated flavors and complex character. Today, local winemakers are handcrafting spectacular wines and are again winning international acclaim.

We are pleased to reward this store for their efforts to bring you these unique and limited availability vines. We hope you will treat yourself to the experience of the fine wines of the Santa Cruz Mountains.

MAY - 8 2006

TOWN OF LOS GATOS PLANNING DIVISION

# WINEGROWERS ASSOCIATION

Town of Los Gatos Civic Center Los Gatos Planning Department 110 E. Main Street Los Gatos, CA 95031

CC: Mike Funari Café Rouge

Dear Town of Los Gatos,

We would like to commend a wonderful restaurant in you area, Café Rouge. Café Rouge is doing a wonderful job of promoting the Santa Cruz Mountains Wines to locals and to visitors. We have sent many visitors to Café Rouge to enjoy our local wines, and they have loved the experience, and the wonderful town of Los Gatos, which is of course the gateway to the Santa Cruz Mountains wine-growing region.

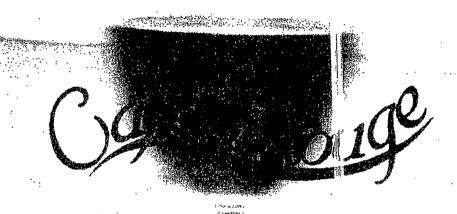
Thank You,

Karen and John Hibble

**Executive Directors** 

Santa Cruz Mountains Winegrowers Association

# SANTA CRUZ MOUNTAIN WINES



BEGINNING DECEMBER 157,2005

CAFÉ ROUGE WILL BE

SERVING LOCAL SANTA CRUZ

MOUNTAIN WINES

AFTER 5P/A

COME AND ENJOY!

# Silbor of cenency

roug of Stanford University students "cic-in" on a central part of campus ay to rally in favor of clemency for lawyers argued their case in front of ang founder Stanley Tookie Williams, mold Schwarzenegger.

those who may be apathetic

to be passionate.'

unified front. We're forcing

'We're trying to show a

arzenegger was not expected to issue on yesterday regarding the possibility ency for Williams, 51, who is scheddie Tuesday by lethal injection.

Association for the Advancement of People and other students held an numerous bicyclists and pedestrians bers of the Stanford chapter of the ing rally by the clock tower on camtracks at the intersection.

trying to show a unified front," said resident Kial, Williams. "We're forca who may be apathetic to be passionus part of the die-in.

from most inner-city areas. lay on the pavenient in black

"At a university like this, a lot of people have connections to people who are in power und can effect change," he said.

os batos Tire & Automotive were Laf Arcain and Bhirton fill Koal) — on — a 4 on as to be desired on the 809 University Avenue 354-3540 THE PRINCIPAL .. numed to writing books on death row publica-tions that preached peace and are tailored loward kids at risk of joining gaugs.

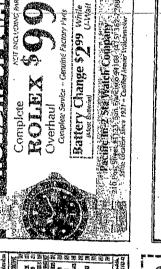
Wonkeire Jones, an 18-year-old freshman, said that the Stanford group's message was relevant even if the campus stands a far stretch NAACP chapter President Kiah Williams oct for clemency for Williams, who was conicted of four 1979 robbery-murders but ate." The group was sceking to drum up sup

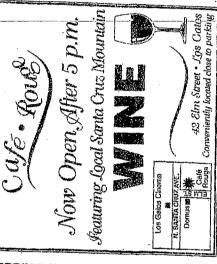
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### Volunteer ombudsmen needed or program to aid the elderly

Cordle says program offers 'personal reward'

By JENNIFER MCLAIN

Nolan Cordle spent 35 years in the busiss world. The retiree says nothing comres to the rewarding feeling he gets as a lunteer ombudsman.

When a person does volunteer work, are is a direct benefit. The personal vard is something that you don't get out tregular paying job," the Los Gatosres-

The ombudsman concept originated in eden in 1809. This program is designed give a voice to residents of long-term e facilities, he says. In California, the wards investigate complaints, ranging a abuse to disapproval about food, by erly residents of registered nursing

01965, the program was embraced in United States as part of the Older terican Act. The long-term care budsman program in California has state mandates. It requires that resits be responsible for receiving reports lleged dependent adult abuse in adult dential care facilities, and for witnessadvanced health-care directives for dents in nursing facilities. Last year, the nudsman program investigated 1,902 nal complaints in California.

ordle says he joined the program two sago after hearing about it in church. He participated in three-month training program covering issues such as how to identify elder abuse, how it affects the elderly and

throughout the county. Cordle has two facilities that he frequents two or three times a week.

When he gets there, he makes his rounds, introducing himself to the new arrivals, and then he visits with the other residents to see if there are any concerns or complaints about their care.

One thing ombudsmen have to remember, he says, is that the volunteers should be

objective. While they should develop a rapport with the residents, they should not do so in a way that would impair their judgment.

The program is essential in Santa Clara County, and Cordle says that there is a need for more volunteers. The volunteers are as old as 85, and have backgrounds in such professions as teaching, medicine and

In Santa Clara County, there are more than 12,600 residents in 55 nursing facilities and more than 350 residential care and assisted living facilities. For all of the residents, however, there are only 25 volunteers.

"I can 't stress enough how important it is that we get more volunteers," Cordle says.

After volunteers complete the 36-hour training program, Cordle hopes that they can donate at least 20 hours a month to the

To learn more, contact Nolan Cordie at

#### how to protect the rights of seniors. Each volunteer is assigned care facilities

# Stylish Views

FEATURING LOCAL SANTA CRUZ MOUNTAINS WIN

'I inery of the Week . River Run

2 5-1599 • 42 Elm Street • Los Gatos

Het the Maker - February 18™ @ 9:00 p.m.

Creat: a chic look with custom window coverings from Budget Blinds<sup>a</sup>!



Domus B C Cate



EVENING WINE BAR

Let our savy Style Consultants show you the infinite passibilities for your windows.

#### OLICE REPORT

heft—Feb. 5, 4:21 p.m. Someone took g of jewelry from a home on Johnson nue. The victim was out of the count the time, and the resident's daughter spied the house. The jewelry was val-at between \$5,000 and \$10,000.

1eff—Feb. 2,3:13 p.m. A juvenile was greed on N. Santa Cruz Avenue bying a chrome valve-stem cover from . The juvenile was detained, cited and

used to a relative, runk in public—Feb. 4, 7:07 p.m. A on was arrested for being drunk in ic on N. Santa Cruz Avenue. While thing him, officers located marijuana

te suspect. He was booked into jail.

110 theft—Feb. 5, 10:05 a.m. An town female stole a car from Carlton

unken driving-Feb. 4, 1:14 a.m. Officonducted an enforcement stop of a VW parked on N. Santa Cruz ue. The driver was found to be under iffuence of an alcoholic beverage. She aken into custody without incident ooked into Santa Clara County Main

rcotics-Feb. 5, 9:51 a.m. Upon a le stop on Capri Drive, a female adult r was found to be unlicensed and the influence of methamphetamine. nk pipe and marijuana were found. as arrested and booked into Santa . County Main Jail.

Drunken driving—Feb. 4, 5:22 a.m. An adult male was arrested for drunken driving after being pulled over on W. Main

Reckless driving—Feb. 6, 1:05 a.m. A male juvenile driver was seen driving through a red light at a high rate of speed. The juvenile speed through a residential area and parking Jots with several witnesses present. He was cited for reckless driving and released.

Petty theft—Feb. 4, 12:08 a.m. A juve-nile was detained after stealing breath mints from a store. The store employee recovered the stolen merchandise. The juvenile was released to his mother for petty theft, possession of less than one

ounce of marijuana and being a minor in possession of tobacco products.

Assault with a deadly weapon—Feb. 2, 5:34 p.m. An adult male stabbed a person in the neck on Blossom Hill Road. The male was arrested and booked at Santa Clara County Main, Jail. Narcotics—Feb. 2, 10:47 a.m. Three

juveniles were found to be in possession of marijuana. They were all cited and

Theft—Feb. 1, 7:07 p.m. A woman contacted an officer on N. Santa Cruz Avenue to make a theft report. She told the officer that her shoes and car keys were stolen. The officer did not locate the stolen items.

Burglary—Feb. 1, 1:02 p.m. An unknown person entered an office locat-ed on Pollard Road and stole multiple computers.



#### Muccigrosso Vineyards 21450 Bear Creek Road Los Gatos, CA 95033 408-354-0821

May 4, 2006

RECEIVED

Town of Los Gatos Civic Center Los Gatos Planning Department 110 E. Main Street Los Gatos. CA 95031

MAY - 5 2006

TOWN OF LOS GATOS PLANNING DIVISION

Attn: Los Gatos Planning Commission

Re:

Café Rouge

Conditional Use Permit Modification Application

#### Dear Gentlepersons:

As one of the many small wineries in the Santa Cruz Mountains, we are writing on behalf of Café Rouge. We are long-time Los Gatos residents (over 28 years), and we have been thrilled that our town has finally brought a wine bar to reality! Café Rouge is a comfortable, friendly place where local wine enthusiasts have an opportunity to try wines from a number of local wineries like ours. Many of us, as small wineries, have limited public exposure, and we have been more than pleased to have our wines featured at Café Rouge.

It has been delightful to watch Café Rouge become a popular place for people to come and enjoy a glass of wine before and after dinner at one of the local restaurants, or before or after a movie at the Los Gatos Cinema (walking distance).

As mountain residents, it has provided a place *in town* for us to meet with friends and family, and to connect with other wine lovers. Our wine sales have increased during the past five months, and we believe this is, in part, due to the fine exposure Café Rouge affords our wines.

There are many small, congenial wine bars in other Bay Area communities. We are thrilled that Café Rouge has filled that glaring gap in Los Gatos! We very much hope to see this establishment continue to grow and flourish!

Sincerely,

Michael and Lynne Muccigrosso

Muccigrosso Vineyards

# MAP AVAILABLE IN CLERK DEPARTMENT

 Date:
 June 28, 2006

 For Agenda Of:
 June 28, 2006

 Agenda Item:
 3

 DESK ITEM

REPORT TO:

The Planning Commission

FROM:

The Development Review Committee

LOCATION:

42 Elm Street

Conditional Use Permit U-06-20

Requesting approval to modify a conditional use permit to increase the seating, allow special events, and wine bar with retail wine sale on

property zoned C-2. APN 529-03-035.

PROPERTY OWNER: Michael Cobler APPLICANT: Belghis and Farhad Proushani

DEEMED COMPLETE: May 18, 2006

FINAL DATE TO TAKE ACTION BY: November 18, 2006

**EXHIBITS:** 

A.-I. Previously submitted

- J. Petitions from concerned citizens, received June 27, 2006 (5 pages)
- K. Letter from Larry Justo Arzie, received June 27, 2006 (1 page)
- L. Applicant's response to staff report, received June 27, 2006

(2 pages)

## **DISCUSSION**:

Exhibits J, K, and L were received after the staff report was finalized.

Prepared by:

Judie Gilli, Assistant Planner

Approved by:

Bud N. Lortz,

Director of Community Development

BNL:RT:JG:

cc:

N:\DEV\REPORTS\2006\42 Elmdsk.wpd

In front of Cafe Rouge on the location of disabled ramp and loading area, I tipped over the curb.

Name: RUTH SCHAPFER

Date: 05-3|-06

Phone: (831) 427-0244

In front of Cafe Rouge on the location of disabled ramp and loading area, I tipped over the curb.

Name: PETA D CALTILL MD

Date: 5/3//06

Phone: 408 656 0204

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AT 10 P.M. AND SUPPERLY

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In front of Cafe Rouge on the location of disabled ramp and loading area, I tipped over the curb.

Name: Hudi Schaffer

Date: 31 May 06

Phone: 831-466-0949

In front of Cafe Rouge on the location of disabled ramp and loading area, I tipped over the curb.

Name: M. Cra

Date: 2 Y Coch

Phone: \$\(\begin{aligned}
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In front of Cafe Rouge on the location of disabled ramp and loading area, I tipped over the curb.

Name Nousoo
Date: 20 Ma
Dhona

>>> "Justo Hernandez" <<u>justohernandez@earthlink.net</u>> 06/27/2006 12:16:19 PM >>>

RE: 42 ELM STREET. APPLICATION U-06-20

It is seldom that we are able to rectify past planning errors. The history of this applicant would clearly justify revolking thier beer and wine license, instead of rewarding them with more seating and a serve alone winebar.

Larry Justo Arzie

Café Rouse

42 Elm Street Los Gatos California 95030

June 27, 2006

RECEIVED

JUN 2 7 2006

TOWN OF ATOS

Planning Commission of the Town of Los Gatos Los Gatos, Ca.

Hand delivered

Ladies and Gentlemen:

Re: Report of Planning Staff to Modification to Café Rouge Use Permit

We have received the Planning Staff Report to our request for modification to our use permit. There are a number of allegations in that report which we feel we must address.

First of all, the complaints noted by the staff: when the staff contacted us about not using the loading zone for seating and keeping it clear, we did remove seats from that area, while also alerting the Town to the safety hazard which the loading zone represents for it. (We have provided the Commission copies of the complaints of individuals who have come into the Café to complain about this hazard just after the Town required that we remove the large planter boxes which we had placed to ameliorate that hazard.)

The second complaint noted by staff concerns the Town Code Compliance Officer advising the Café that wine tasting is against their CUP. Farhad had the conversation with the Code Compliance Officer. The officer asked is there were any wine tastings occurring in the Café. Farhad said that there is certainly no free alcohol, if that is what he meant. Patrons do taste wine, because we sell it by the glass with food, and Farhad understood that sometimes our partner Mike Funari sells wine by the flight, so that an individual can try more than one with their food. The officer was satisfied, we thought, that we were not in violation of our CUP.

The third complaint consisted of individuals reporting that the Café was selling wine without food, and that the Café was selling wine for off-site consumption. The café does not and has not sold wine without food, although it sometimes happens that patrons linger over their wine when the food dishes have been removed from the table. That could give the impression of a violation, when none occurred. As to the sale of wine for off-site consumption, we did consult the terms of our ABC license when Mr. Funari wanted to do that, and learned that it was permitted under our license. We did forget about the restriction in our operating permit from the Town, but immediately ceased

selling wine for off-site consumption when staff reminded us of that provision. We apologize for this very unintentional violation of our existing permit.

As you can see by our plan, we proposed to comply with the Town regulations concerning outside seating, which will be well marked off and separate from the public sidewalk. The planned outside seating will also solve an existing liability problem for the town concerning the dangerous "loading zone" area. The town engineer has recently reported to the town that the "loading zone" area is not suitable for that use. Forty seats is not unduly crowded, and has been approved by the health, fire and police departments.

The staff report recommended decreasing the hours of operation of the alcohol sales from our existing CUP, which is 11:00am to 11:00 pm, to 11:00 am to 10:00 pm. The staff also recommended that we be no longer permitted to serve beer and wine in the patio, where we are now permitted by our CUP to serve it, and where a good part of our business is done.

The staff recommended permitting no off-site sales, on the theory that our business is different from the Coffee Roasting Company in that they sell "grocery" items, and from Café Marcella, where there is a separate room for wine sales. But we don't think that a "one size fits all" rule works. We want to be different from Café Marcella in that we want the patrons to be able to buy the wine they just tasted, and see it displayed in the same room. We want to be different from Coffee Roasting Company in we are a much smaller operation. Our clientele is different. Sometimes one is not hungry, but just would like a glass of wine in a quiet place. We do not want to require our patrons to buy food; they do not understand that it is a requirement of the Town and not our own. At the meeting, our partner Mike Funari will have a compilation of all the other wine bars in surrounding communities which do not require food be served with wine.

We started the emphasis on Santa Cruz Mountain Wineries on December 1, 2005 with a six month understanding with our partner Mike Funari. We agreed that if there seemed to be community interest in the idea, at the end of the six months we would go to the town to modify our CUP to permit that aspect of the business to grow it its fullest potential. Apparently the Coffee Roasting Company knew a good idea when they saw one, and has gotten their own permit to sell wine off-site and have wine tastings of Santa Cruz Mountain Wineries. But we think that the Town is big enough for two venues emphasizing wines of the Santa Cruz Mountains. However, we cannot compete with the Coffee Roasting Company without changes to our CUP to permit off site sales, wine without food, and much more seating.

We will be sharing our vision of the new café at the meeting on Wednesday night, plus some other points which we think are pertinent to your deliberations on this matter.

Very truly yours,

Belghis and Farhad Proushani

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## REQUIRED FINDINGS FOR

42 Elm Street
Conditional Use Permit U-06-20

Requesting approval to modify a conditional use permit to increase the seating, allow special events, and wine bar with retail wine sale on property zoned C-2. APN 529-03-035.

PROPERTY OWNER: Michael Cobler APPLICANT: Belghis and Farhad Proushani

## **FINDINGS**

- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.
  - (a) The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of the Town Code if it finds that:
    - (1) The proposed uses of the property are essential or desirable to the public convenience or welfare;
    - (2) The proposed uses will not impair the integrity and character of the zone;
    - (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
    - (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.
- That the proposed porject is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

## RECOMMENDED CONDITIONS OF APPROVAL FOR:

42 Elm Street

Conditional Use Permit U-06-20

Requesting approval to modify a conditional use permit to increase the seating, allow special events,

and wine bar with retail wine sale on property zoned C-2. APN 529-03-035.

PROPERTY OWNER: Michael Cobler

APPLICANT: Belghis and Farhad Proushani

## TO THE SATISFACTION OF THE COMMUNITY DEVELOPMENT DIRECTOR:

## (Planning Section)

- 1. CONDITIONS: These conditions of approval shall supercede all previously adopted conditions.
- 2. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit I in the report to the Planning Commission. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development or the Planning Commission, depending on the scope of the changes.
- 3. LAPSE FOR DISCONTINUANCE: If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses.
- 4. USE: The approved use is a high turnover (sit-down) restaurant as defined by the Zoning Ordinance.
- 5. NUMBER OF SEATS: The maximum number of seats for the restaurant shall not exceed 12 seats total (indoor and outdoor).
- 6. HOURS OF OPERATION: Hours of operation for the restaurant shall be 6:00 a.m. to 1:00 a.m. seven days a week. Alcohol service and retail alcohol sales shall be limited to 11:00 AM to 10:00 PM, seven days a week.
- 7. ALCOHOL SALES: The service of wine by the glass for the restaurant is permitted, indoors and outdoors, only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals. Retail sale of wine for off-site consumption is permitted from 11:00 AM to 10:00 PM, seven days a week.
- 8. WINE TASTING: Wine tasting is permitted indoors only. The maximum sample size for the tasting shall not exceed one ounce.
- 9. OUTDOOR AREA: The design of improvements to the outdoor area must be approved by the Chief of Police, the Community Development Director, and Director of Public Works prior to installation. The Chief of Police will review the proposal for public safety. The Director of Public Works will review the proposal for landscaping, proper separation between landscaped areas, loading zone and pedestrian ramp.
- 10. TAKE OUT: Take out food shall be served in recycled material containers.
- 11. UTENSILS: All beverages and food served on site shall be served on reusable materials.
- 12. TRASH: Operators of the restaurant shall pick up trash in the vicinity of the restaurant when outdoor seating is available.
- 13. SPECIAL EVENTS: Wine tasting lectures, community meetings and private (invitation only) events are allowed. These events are limited to once a month and during hours of operation. Alcohol service and entertainment is not permitted during these events.

42 Elm Street - August 7, 2006 <u>Conditional Use Permit U-06-20</u> Page 2

14. PROHIBITED USES: Service of alcohol without a meal and outdoor barbeques are not allowed.

# TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS: (Engineering Division)

- 15. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
- 16. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
- 17. OUTDOOR TRASH ENCLOSURES. Within 60 days of issuance of a conditional use permit, outdoor trash enclosures shall be covered and area drains connected to the sanitary sewer system shall be provided within the enclosure.
- 18. GREASE TRAPS. Meet all requirement of the Santa Clara County Health Department and West Valley Sanitation District for the interception, separation or pretreatment of effluent.
- 19. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

## Cafe Rouge 42 Elm Street, Los Gatos Ca. 95030 July 17, 2006

Mayor and Council Members Town of Los Gatos P.O. Box 949 Los Gatos, Ca. 95030 RECEIVED

JUL 2 0 2006

TOWN OF LOS GATOS PLANNING DIVISION

Ladies and Gentlemen,

With our great appreciation to the Town of Los Gatos Planning Commission decision, and our utmost faith and trust to Madam Mayor and Council Members Town of Los Gatos, for final consideration and decision, we would like to state a few facts, which will determine our success of doing business in the town.

Cafe Rouge for the past 6 years has operated with license to serve beer and wine. We have a great reputation in the town of Los Gatos, and would like to ask the Town to grant us permission to serve beer and wine without the enforced purchase of food items. However, our menu is designed, and priced carefully, in order to encourage our clientele to purchase food. Of course the food service would be available throughout the hours of operation.

Cafe Rouge is not a place to go to see, or to be seen. Cafe Rouge attracts a quieter crowd, sometimes, an older clientele. Our customers enjoy conversation that goes with sharing a drink and ideas in a quiet place, before or after a movie, or perhaps, before or after eating times. This permit would greatly add to the sophisticated, and thoughtful, make-up of down town Los Gatos. Cafe Rouge is a small, and personal, cafe not a chain or franchise. We would like to think that Cafe Rouge is part of the charm of Los Gatos.

To use the cafe more efficiently to serve our customers, we need to expand our seating to a total 40, inside and out (seating for 40 has already been approved by the Fire, Health and Police Departments). Please see attached proposal plan of the outside area, which was formerly a loading area before the town constructed the handicap ramp.

Finally, Cafe Rouge is a place where Espresso and Wine share the same space, the same customers and the same services. Within the discretion of Madame Mayor, and Council Members Town of Los Gatos, we request to be allowed to use our ABC #41 license with no restrictions, for at least, a period of one-year on a trial basis. If this privilege brings anything other than adding to the charm, and services in the town, our permit could be restricted again according to town policies.

We appreciate your consideration of our request, and would be happy to welcome you to Cafe Rouge at any time.

Very Truly Yours,

Belghis and Farhad Proushani

in keeping with Los Gatos town's alcohol policy and in concert with tradition of France, Spain, and Italy, which considers wine as inseparable from food, we are pleased to offer the following plates from our menu.

# assiette de fomage \$6.50 cheese plate

assorted cheese, olives and mustard, and French baguette

assiette de fromage et salmon \$6.50 cheese and salmon plate

assorted cheeses and wild salmon, olives and French baguette

assiette de charcuterie \$6.50 charcuterrie plate

combination of assorted cured meats accompanied by whole grain mustard and French baguette

pasta/quiche of the day \$6.50

homemade quiche or pasta served with baby green salad and vinaigrette dressing

## Cafe Rouge 42 Elm Street, Los Gatos CA 95030 July 21, 2006

Mayor and Council Members Town of Los Gatos P.O. Box 949 Los Gatos, Ca. 95030 RECEIVED

JUL 2 1 2006

TOWN OF LOS GATOS PLANNING DIVISION

Ladies and Gentlemen,

The present terminology in our recommended conditions of approval for our CUP is very different to the one for Coffee Roasting Co. We would feel more justified if you please consider the changes of the wording as below:

- 4- USE: The approved use is a coffee shop-restaurant, espresso bar and wine bar
- 6- Hours of Operation: Maximum hours of operation for the restaurant shall be 6 a.m. to 1 a.m. 7 days a week. The wine service bar and off-site sales of wine shall be limited to 11 a.m. to 10 p.m., 7 days a week.
- 7- Alcohol Service: The service of the wine by the glass for the restaurant is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals. Retail sale of wine for off-site consumption is permitted from 11 a.m. to 10 p.m., 7 days a week. Beer and wine maybe served with meals in the outside patio area as long as there is a barrier or fencing, 3 feet in height surrounding the patio area and separating it from the side walk. The barrier or fencing maybe a combination of fencing and shrubbery to equal 3 feet.
- 9- Outdoor Seating Area: (previous loading zone before the town constructed the handicap ramp): The chief of police and director of public works prior to installation must approve the design of improvement to the outdoor seating area. The chief of police will review the proposal for public safety. The director of public works will review the proposal for proper separation between landscape area and pedestrian ramp.
- 14- Special Cultural Events: Wine tasting lectures, community meetings, and private (invitation only) events are allowed. These events are limited to once a month each and during the hours of operation. Wine bar service is not permitted during these events.

The use of this terminology is more likely, to describe the nature of Cafe Rouge. The kind of business we are conducting now and intend to sustain in the future, which is more realistic, prestigious and sophisticated.

Very Truly Yours,

Belghis and Farhad Proushani

B-Pronse

#### **RESOLUTION 2006 - 072**

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPROVING THE REQUEST TO MODIFY A CONDITIONAL USE PERMIT TO CHANGE THE HOURS OF OPERATION AND ALLOW SPECIAL EVENTS, A DELICATESSEN, OFF-SITE BEER AND WINE SALES, AND WINE TASTING ON PROPERTY ZONED C-2.

APN: 529-01-025
CONDITIONAL USE PERMIT: U-06-12
PROPERTY LOCATION: 91, 101 AND 109 W. MAIN STREET
PROPERTY OWNER: SUE FARWELL
APPLICANT: TERI HOPE

#### WHEREAS:

- 1. This matter came before Council for public hearing on June 5, 2006.
- 2. Council received testimony and documentary evidence from the applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted.
- 3. The Los Gatos Coffee Roasting Company is located at 109 W. Main Street (Store A), 101 W. Main Street (Store B), and 91 W. Main Street (Store C). Store A was granted a Conditional Use Permit (CUP) on March 12, 1997, which allowed for a Creperie and no additional seating. This CUP is now expired and the store is used by The Los Gatos Coffee Roasting Company as retail space. Store B currently operates under a CUP approved on July 10, 1986 allowing for a restaurant with a maximum of 16 seats. Store C currently operates under a CUP approved on July 23, 1986 allowing the previously approved restaurant to expand into 91 W. Main Street and for the addition of 36 seats. In all, the Los Gatos Coffee Roasting Company is currently allowed a maximum of 52 seats.
- 4. The approved hours of operation for the Los Gatos Coffee Roasting Company are

as follows: 7:30AM to 6:00PM Monday through Wednesday; 7:30AM to 10:30PM .

Thursday through Saturday; and 9:30AM to 6:00PM Sundays.

- 5. Applicant seeks approval to modify its CUP to allow for the operation of a gourmet grocery store and full service delicatessen counter offering sandwiches made to order, bulk meats, cheeses, and other deli items, in its Store A location.
- and wine and for wine tasting. Applicant intends to require patrons to pay for one ounce wine tastes in accordance with Alcohol Beverage Control (ABC) requirements, and to offer pre-packaged snacks. Applicant also intends to require that patrons be served a lunch or dinner meal before being served alcoholic beverages, as required by the Town's Alcohol Policy. Alcohol service would also be restricted during special events held at the Los Gatos Coffee Roasting Company. Special events include events for individuals under 21 years of age, poetry and music weekend evening events, community meetings, and the Los Gatos Coffee Roasting Company's annual events.
- 7. The applicant also seeks approval to modify its CUP to change the hours of operation. The desired hours of operation are 6:00AM to 10:00PM seven days a week. The wine bar would close at 9:30PM seven days a week.
- 8. Town Council finds as follows:
- a. Pursuant to Town Code section 29.20.190, the proposed use of the property is desirable to the public convenience; will not impair the integrity and character of the zone; would not be detrimental to public health, safety or general welfare; and is in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code. Evidence in the record demonstrates that the proposed modification to

the CUP would encourage (1) economic and social activity consistent with a small-scale, small town atmosphere and image, (2) the development and retention of locally-owned stores and shops, (3) the preservation of downtown Los Gatos as the historic center of the Town with goods and services for local residents while maintaining the existing Town identity, environment and commercial viability, (4) the development of a new image and market in the Town as the gateway to the Santa Cruz Mountains wine region, and (5) the provision of a new, attractive and well managed night time gathering place in downtown Los Gatos for local youth.

- b. The project is categorically exempt from environmental review pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.
- c. The proposed use is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (section IV.B), as evidenced by the staff report prepared for the public hearing on June 5, 2006.

## **RESOLVED:**

- A. The Conditions of Approval attached hereto as Exhibit A are hereby adopted as the Conditions of Approval of this permit.
- B. The decision constitutes a final administrative decision pursuant to California Code of Civil Procedure section 1094.6 as adopted by Section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by California Code of Civil Procedure section 1094.6, or such shorter time as required by state or federal law.

## PASSED AND ADOPTED at a regular meeting of the Town Council of the

Town of Los Gatos, California held on 19th day of June 2006 by the following vote.

## **COUNCIL MEMBERS:**

AYES:

Steve Glickman, Joe Pirzynski, Barbara Spector, Mike Wasserman,

Mayor Diane McNutt.

NAYS:

None

ABSENT:

None

ABSTAIN:

None

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS

LOS GATOS, CALIFORNIA

**ATTEST** 

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS

LOS GATOS, CALIFORNIA

## CONDITIONS OF APPROVAL FOR:

## 91, 101 and 109 W. Main Street Conditional Use Permit U-06-12

Requesting approval to modify a conditional use permit to change the hours of operation, allow special events, deli, off and on-site beer and wine sales and wine bar on property zoned C-2. APN 529-01-025.

PROPERTY OWNER: Sue Farwell

APPLICANT: Teri Hope

## TO THE SATISFACTION OF THE PLANNING DIRECTOR:

(Planning Section)

- 1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit L in the report to the Planning Commission. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development or the Planning Commission, depending on the scope of the changes.
- 2. LAPSE FOR DISCONTINUANCE: If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses.
- 3. USE: The approved use is a coffee shop-restaurant, delicatessen, wine bar, and specialty retail. Store A contains the wine bar, deli counter, off-site sales of wine, and specialty grocery/coffee retail uses. Stores B and C contain the espresso bar and coffee shop uses. The use shall be consistent with the description contained in the letter from Teri Hope dated April 21, 2006, attached and incorporated herein as Exhibit A.
- 4. NUMBER OF SEATS: The maximum number of seats for the restaurant shall not exceed 52 seats and 6 seats on the outdoor benches in front of Store B and C. No additional seats will be allowed outside of restaurant.
- 5. HOURS OF OPERATION: Maximum hours of operation for the restaurant shall be 6:00 a.m. to 10:00 p.m. seven days a week. The wine service bar will operate from 11:00 a.m. to 9:30 p.m. during normal business hours. Wine bar service not permitted during the following special events: Under 21 Events, Poetry/Music Weekend Events, and Community Meetings.
- 6. ALCOHOL SERVICE: Alcohol service shall be consistent with the description contained in the letter from Teri Hope dated June 1, 2006, attached and incorporated herein as Exhibit B. The service of wine by the glass for the restaurant is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.
- 7. WINE TASTING: Wine tasting is permitted at the wine bar located at the front of Store A as shown on Exhibit L of the report to Planning Commission. No seats are permitted at the wine bar. The maximum sample size for the wine tasting shall not exceed one ounce. Packaged snacks may be served as part of the wine tasting.
- 8. SECURABLE BARRIER. The applicant must install a securable barrier between Store 'A' and Store B as show on Exhibit L to the satisfaction of the Community Development Director. The barrier must be secured during all special events that do not permit the service of alcohol.
- 9. LIVE ENTERTAINMENT: No live entertainment shall be provided during the service of alcohol.

Conditions of Approval 91, 101 and 109 W. Main Street Conditional Use Permit U-06-12 Page 2

## 10. SPECIAL EVENTS.

Condition #	Special Event	Event Type								
10a.	Events for individuals under 21	A maximum of 12 events per year. Amplified music and open microphone. Alcohol not permitted during hours of scheduled youth group events. Adult supervision provided for each under 21 event. Amplified music shall not go past 9:30 PM Sunday through Thursday. Amplified music shall not go past 10 PM Friday and Saturdays. Under 21 events shall not go past 11PM.								
10b.	Poetry/Music Weekend Evening Events	A maximum of 10 events per year. One event per month scheduled on a weekend evening. Poetry and amplified music. Alcohol service not permitted during hours of weekend events. Music shall end at 9:30 PM.								
10c.	Community Meetings	Weekly community meetings (including the Los Gatos Art Association Board, co-op nude figure drawing group, and wine appreciation lecture group) held within non-business hours. Music, alcohol, and food service not permitted. Events will not go past 10 PM.								
10d.	Los Gatos Roasting Company Annual Events	Two Los Gatos Roasting Company events per year, by invitation only. Amplified music and alcohol permitted. Music shall end at 9:30 PM.								

11. WINDOW CURTAINS. Opaque window curtains must be placed in all storefront windows during nude figure drawing classes.

## TO THE SATISFACTION OF THE DIRECTOR OF BUILDING & ENGINEERING:

12. TRAFFIC IMPACT MITIGATION FEE. A traffic mitigation fee shall be paid for an

Conditions of Approval 91, 101 and 109 W. Main Street Conditional Use Permit U-06-12 Page 3

additional 126 ADT prior to the issuance of a Certificate of Use and Occupancy. \$13,008.96 shall be paid within 30-days of Town Council approval of the CUP.

## TO THE SATISFACTION OF THE CHIEF OF POLICE:

- 13. UNIFORMED SECURITY: Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
- 14. CONSULTATION AND TRAINING: At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.
- 15. TRAINING MANUAL: The restaurant operator shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
- 16. DESIGNATED DRIVER PROGRAM: The restaurant operator shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
- 17. POSTING OF TAXICAB TELEPHONE NUMBERS: Taxicab telephone numbers shall be posted in a visible location.

N:\ATY\LG Coffee Roasting Company\LG Roasting Co. Conditions of Approval.wpd

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ROCBEDINGS:	ICHE: So the next item is 42 Blm	approval to modify a conditional use	 increase the seating, allow special events and	le sale on property zoned C-2, APN 529-	the applicant here? Has everybody had a chance	the desk item? Excuse, I'm going to take a few	a desk item that came in.		ICHE: We're ready? Gentlemen, do we	not, please proceed.	UGHANI: Mr. Chairman, ladies and	gentlemen, good evening. We opened Café Rouge in 1995.	simply an espresso bar and we served	We later added food items. Today, in	lunch menu there is always food	, w	s secured approval from the Town to sell	equently we were granted an ABC license	sell beer and wine on the premises as		LOS GATOS PLANNING COMMISSION 6/28/2000 Trem #3, 42 Elm Street 2
<b>I</b>	CHAIR MICGICHE:	Street. Requesting	permit, to increase	wine bar, retail wine	03-035. Is the appl	to look at the desk	minutes. There was	(Pause.)	CHAIR MICCICHE:	need more time? If	FARHAD PROUSHANI:	gentlemen, good eve	Initially we were s	specialty coffee. W	addition to a full	available in the café	In 2000 we	beer and wine. Subsequently we were	that allowed us to		LOS GATOS
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phil Micciche, Chair John Bourgeois Michael Kane	Tom O'Donnell Steve Rice Joanne Talesfore		Randy Tsuda	Orry Korb	Vicki L. Blandin (510) 526-6049																G COMMISSION 6/28/2006 42 Elm Street
Los Gatos Planning Commissioners:		4	Assistant Director of Community Development:	Town Attorney:	Transcribed by:																LOS GATOS PLANNING COMMISSION 6/28/2 Item #3, 42 Elm Street

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well as for offsite sale. It also required that food is available during certain hours of operation.

We, the owners of the Café Rouge, are extremely shocked with the report of the Town Staff. We have delivered a letter yesterday to speak to that report. I would like address a few more significant errors and inaccuracies contained in the June 22<sup>nd</sup> report to the Planning Commission.

Page #2A: The report makes reference to a March 2006 incident in which a code compliance officer visited the café regarding wine tasting. I explained that we do sell wine by the glass, but we do not give wine away. He was unable to explain what he meant by "tasting," and he left saying he was not even sure if this was the right place. I was surprised to even see this included in the report.

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page #4, Item #2: This statement seems to be clearly prejudicial. To say we have a history of violations seems a bit extreme. The planner makes reference to four offenses over the past 11 years of our operation. One of these allegation violations was completely false and the validity of the others are certainly debatable, as the

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20 22 23 24 25 LOS GATOS PLANNING COMMISSION 6/28/2006 Item #3, 42 Elm Street

As you can see, it says nothing about a wine bar; it simply beginning consisted solely of this poster. advertise as a wine bar. This statement is also completely This paragraph also states that we continue to of wine bar and they inappropriate about advertising as a wine bar. We have dates of the complaints are coincidentally just before and a license and it doesn't exist. Gatos planning says we will be serving Santa Cruz Mountains wine wonder what would be Roasting Company's CUP meeting. called the Los the definition we have wine, 0Ľ one, makes me false. Our advertising has have department to obtain not to sell it. I we have a bar, December 2005. This they did äe permit told 10 11 13 14 12

We are disregarding our disappointment because of our utmost trust and faith in the cooperative approach of the Town to the applications that are beneficial to the character of the Town of Los Gatos and the community's welfare. Therefore we would like to review our application briefly.

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After three years of poor economy and the opening of Santana Row, Café Rouge, like most of the other businesses in town, has lost almost 50% of its business.

Our policy to conduct our business has always been to mind

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our own business and to be creative rather than being competitive or adopting the other business's ideas, and keep the diversity in our town, which is essential for its uniqueness.

Finally, together with our business partner, Mike Funari, which I'll introduce him in a minute, we came up with a great new idea to serve the wine of our local wineries and entered into this niche of the market in Los Gatos on December 1, 2005. We gave ourselves a period of six months.

(Timer goes off.)

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CHAIR MICCICHE: Excuse me. Could you wrap up,

please?

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good reviews for the wine that we were doing, and we FARHAD PROUSHANI: Sure. Fortunately from day one about the Los Gatos Roasting Company, but even having said t 0 were very successful in what we were doing. Having said that, I think at this point we do not want to complain I have some photographs, which I was going in the free market economy and a competitive there are codes of conduct and morality. business, show you we had that, 16 15 17 18 19 20 21 22 23

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no wine

was there was

things we thought when we came here

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bring you back up first Would you give them to the side to sit also, if can lead Okay, I'm going to open up. Any on this, Hello, my name is Simon Selwood. questions of the applicant at this point, commissioners? to ask run out of time unfortunately. here and she can pas's those around to us. And recognize Excuse me. We do have a busy have lived in Los Gatos for two years, and one of the ď Commissioner Kane? None? Okay, I'm going to ask you Okay, and there's also My wife FARHAD PROUSHANI: I was actually going to ask my business partner to say a few words questions do have two speakers down and call the public up, and then I'll I live at 17568 Comanche Trail, Los Gatos. the seat is. let's see if business partner coming up Okay. will be asking questions. of the area where the FARHAD PROUSHANI: FARHAD PROUSHANI: CHAIR MICCICHE: CHAIR MICCICHE: have CHAIR MICCICHE: CHAIR MICCICHE: okay? SIMON SELWOOD: night tonight and we the end of that, you come back don't mind. Selwood. that we to your sketch Mr. When 20 Zou ๙ 23 Ŋ 10 21 24 15 16 17 18 디 12 13 14 13 20

bar. So up until Café Rouge started serving wine we used to go to Saratoga and then Santana Row. So when Café Rouge started serving glasses of wine we thought it was super, we thought it was overdue. I really think there's plenty of places I don't want to go to get a glass of wine in Los Gatos, and this is one of the few places that I do want to go. So I strongly support anything that can be done to expand their license.

CHAIR MICCICHE: Thank you very much. Do we have any questions? Excuse me, I might give some advise to the partner. If you'd like to speak in the three minute spot here, if you'd like to fill out one of these cards, we'll give you three minutes up here at the podium. In the meantime I'll call up the second card here. I have a Lynne Muccigrosso.

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supportive of the serene and friendly atmosphere created at All of the small wineries in Н 잂 very live at 21450 Bear Creek Road, Los Gatos, have been a LYNNE MUCCIGROSSO: I am Lynne Muccigrosso. benefit from Café Rouge's wine bar. Remote, of which we are one, have So we are our wines. public for 29 years here. unavailable tasting rooms, to the this establishment outlet to offer Los Gatos resident

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Wine bars are a lovely option to the many bars that are already available here in Los Gatos. There's a different atmosphere, there is a friendly calm feeling about it. It would be a shame to send the happy patrons of the Café Rouge wine bar off to Willow Glen or off to Campbell to find that mellow and comfortable atmosphere. So we are very much in favor of extending their permit. Thank you.

CHAIR MICCICHE: Any questions? Are there more cards? A Mr. Mike Funari.

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MIKE FUNARI: My name is Mike Funari. I am a lifelong resident of the area. I was born in Santa Clara. I've lived in Los Gatos and currently make my home in Boulder Creek, I have for the past 20 years.

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My involvement with Santa Cruz Mountain wines and Café Rouge has been a very satisfying experience. Nearly a year ago I began to develop relationships with many of the small wineries in the area, where there are a very small number of wineries that are large.

small, and consequently don't generate an awful lot of revenue. In fact, many of the winery owners have jobs outside the winery.

Because of their small size they are

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the gateway to the Santa Cruz Mountain wine country,

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not widely distributed, and consequently not a lot of people get opportunities to experience their wines and ultimately purchase them. Café Rouge is trying to solve this dilemma one customer at a time by serving wine by the glass.

some time. Wine is available there by the glass and by the

bottle. There is no food available. Unwined on Almaden

I think since these winery owners are so small, many of them are not motivated—as I said, they have jobs outside their wineries—many of them are not motivated by profits as many large commercial wineries are. They have a passion for making wine. Their motivations are to make the best bottle of wine they can, and they are making some phenomenal wines.

Customers of Café Rouge tend to be mature professionals that have an appreciation for fine wines. They have a curiosity and an interest in local wines. Moreover, a significant percentage of the patrons of Café Rouge are local neighborhood people. They live within walking distance of the café, and as a matter of fact the café has become sort of a community meeting place. Many people come into the café to enjoy a glass of wine and end up meeting some of their neighbors.

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The concept of wine bars is neither unique nor particularly new. Uncorked exists in Los Gatos and has for

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Tasting rooms like the frequently featured. Vintage Wine Bar in Santana Row offers is true of Vino Locale in Palo Alto, the the bottle. Food is available but not Sure, I'll wrap up just by leaving 12 and Cava visitors alike a place to become more familiar with wines Councilman Joe Pirzynski called the Grapevine in Willow Glen, and Soif in Santa Cruz. Within "Downtown Los 70 wineries in the hills above town, to present wines being Could you wrap up, please? appeared in the one planned by (inaudible) could give residents and offers wine by the glass and by the bottle. Food is the last month Good Taste has opened in Campbell, available but not required. Live entertainment It says, Ġatos boundaries. editorial that two weeks ago. place Gatos seems like a natural CHAIR MICCICHE: (Timer sounds.) MIKE FUNARI: the glass, by produced in the area. this excerpt from an required. The same produced in nearly Gatos Weekly Times of them within Los in Capitola. wine by 12 10 디 16 18 13 20 17 13 14

and if word gets out, it could make downtown Los Gatos the destination place so many merchants hope it can become."

Each night I look out the window of the café to the parking lot adjacent to the café and I see probably close to half the parking spaces... One moment, please.

CHAIR MICCICHE: Excuse me. No, I did ask you wrap and we are running long time. I'm sure people may have questions on that. You were saying something about seeing what parking spaces?

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spaces. The majority of parking spaces actually seem to be empty. If you've walked around town lately you've noticed quite a large number of empty storefronts as well. I believe this commission has a responsibility to act in the best interests of the community and I believe they have an opportunity to do that here tonight by approving this application.

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CHAIR MICCICHE: Thank you. Any questions of the speaker? Seeing none, thank you very much. Any other speakers on this subject? Seeing none, I'll call the applicant back up for questions from the commission or any other comments you may like to make at this point.

FARHAD PROUSHANI: Is there any question for me?

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CHAIR MICCICHE: Well, why don't you wrap up anything you may want to say?

expand our seating to 40 seats. At present we are allowed only 12 seats inside/outside. We request to implement our ABC license 41 to it's full potential. To support our offsite sale we request to carry wine tasting sessions, to expand our outside seating to the area, which is no longer safe and sound to be used as a loading zone.

At this point I would like to show you a couple of photographs, which I have already given to you, and a sketch of what our proposal is.

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That loading zone has become a hazard and a liability for the town. We have added people who have tripped down and fall down and they've ripped their knees on that (inaudible). This is because the town constructed two disabled ramps, one of them right in front of the loading zone. Therefore there is a difference of level of almost one foot to the loading zone. It is not even practical for the lorries to turn into that loading zone.

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and they Therefore the engineer of the town actually has come to place, a pot of flowers to morning I safe not a the next 13 actually and they gave us that this zone. And and has told us the loading σĘ come came

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LOS GATOS PLANNING COMMISSION 6/28/2006 item #3, 42 Elm Street

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work and the pot is gone, somebody took it, so there is not even a pot there anymore.

So this is the situation. As you see in the

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the

get rid of

we are trying to safeguard the place,

sketch,

liability, and also use this space, which is the best location looking at the hills of Los Gatos.

I have nothing else to say.

CHAIR MICCICHE: Any questions at this time, Commissioners? None? Okay, thank you. Thank you very much. I'm going to close the public hearing and open it up either to comments, questions of Staff, or a motion. Commissioner Bourgeois.

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staff. Both in the conclusions of the Staff Report as well as in Condition #5, in the conclusion you state you don't find increasing the seating to 40 to be compatible with the town's alcohol policy, which I found a little confusing. And then in Condition #5 you say, shall not exceed 12 seats, but then you go on in Condition #16 to say, you know, if we give them 40 seats they'll have to pay this traffic mitigation fee. So I'm a little confused about Staff's position and the resolution particularly of Condition #5 versus Condition #16.

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RANDY ISUDA: Well Condition #16 is placed on there as a standard condition utilized by our engineering department. In the event that the commission approved that

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unusual circumstance with this property that would appear to So with 40 seats requested and play. It's to give full disclosure to an applicant that COMMISSIONER BOURGEOIS: So whichever direction we parking number of seats, that's the mitigation that would come into seats a variance. In this рe there's nothing running with the land, there's no then there is no mitigation fee to That's simply a piece of information that we're RANDY TSUDA: Based on our analysis of the Currently there are 12 applicant is asking for 40. Does Staff have in mind that they can live with? рe go, we're going to have to change one or the other? COMMISSIONER BOURGEOIS: Okay. Thank you. is what he would be obligated to pay should that parking not Commissioner situation, it's inconsistent with the grounds for you do the findings for a variance. No, if COMMISSIONER KANE: COMMISSIONER KANE: providing to the applicant. CHAIR MICCICHE: be any RANDY ISUDA: compromised number not appear to increase in seats, approved, the paid. does case and 20 12 13 14 15 16 17 18 19 20 11

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the negative

to mitigate what,

an \$8,000 fee for that

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parking impact? If

we went to 20 it would be \$4,000?

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RANDY TSUDA: The fee is associated with the traffic increase. It's not associated directly to the parking

CHAIR MICCICHE: Commissioner O'Donnell.

I listen to this and am of this any þe and I don't see why we can just t very sympathetic and not commenting on the quality there doesn't seem COMMISSIONER O'DONNELL: operation. On the other hand, forget the parking rules. on the parking, leeway

Secondly, we are supposed to observe what the Town Council adopts, and they have a standalone alcohol policy, which flies in the face of this.

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guess the real question I have is what can we people something? I'd like to do that. I'm very sympathetic, policy? Is there anything of what they're asking us that we going to say somebody can put in 40 seats when it won't policy says essentially no. It is not something that I feel for these people that would be consistent with the town would allow us to give these good can do to help them? But I can tell you this: I for one am So I guess what I'm asking support it, and have standalone alcohol when the town's my fellow commissioners is whether you agree with that position or not, do you see something in addition we have a lot of leeway. I have a lot of discretion on. I'm concerned about that but I don't think not ဓ 13 14 23

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Are you asking a question of CHAIR MICCICHE: Staff at this point? 0

COMMISSIONER O'DONNELL: NO

Okay. Just making a comment. CHAIR MICCICHE:

Commissioner Talesfore.

н doesn't... When we approved the Coffee Roasting it was very COMMISSIONER TALESFORE: Thank you, Tom. That was particular and very specific that the wine would be served only with food, and that is not the case here. I could not pretty much a standalone bar, and I don't understand well said. And I guess my question with this is it sounds come back with another where the food service came in. It wasn't too clear it's available, but it even support this for that reason alone. ţ they need there, was like it's sympathetic. Maybe **i**t like

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But we did approve one-COMMISSIONER BOURGEOIS: proposal, I don't know.

that is why Staff included that And condition of approval. RANDY TSUDA: ឧន

ounce tastes as standalone

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COMMISSIONER BOURGEOIS: Right.

That would allow them the one-ounce to the alcohol policy, that must However, if |you're going to be served full RANDY TSUDA: served with a meal. of wine, according tastes.

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COMMISSIONER BOURGEOIS: With a meal, right. So I would be inclined to approve tasting and retail sale for offsite consumption consistent with what we did at the Roasting Company, and then maybe, especially given one of the councilmember's comments that if we do have larger questions we take that offline to Council for direction about standalone glasses of wine.

CHAIR MICCICHE: Commissioner Kane.

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COMMISSIONER KANE: We're not Council members, we're planning commissioners, and we're stuck with our language, as has been said. But we can make recommendations or ask for guidance from Council.

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There's talk in town, in the chamber, in the mountains, among the residents about destination Los Gatos wineries, and I think what's coming up before us now is an issue regarding changing times. If the alcohol policy was written for a very good reason back when, current circumstances didn't exist, and what we're looking at now is developing the town as a destination wineries, the 70 up in the hills, the 17 that exist in Los Gatos boundaries.

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So as has been said, we have the authority to go ahead on wine tasting and we have the authority to go ahead on retail wine sales. We have the authority to basically do what we did at our last meeting for the Los Gatos Roasting Company, but I want to go beyond that, because since this involves alcohol it must go to the Town Council in any

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l event, and I would ask them to explore the merit of reviewing the existing alcohol policy and possibly bringing it up 2006, or 2007 or 2008 or 2009.

hills to establish a presence in town, that didn't exist ten years ago, and maybe we have to reexamine the word "wine" in are changing and we're losing I'm sure and as we have more wineries coming down from the As the town evolves and as these wine tastings but businesses and we're gaining some others, and our alcohol policy. Not to say what we should do, Things the Council is aware of that. to be examined. ŗ. evolve, like some 10

It's not our authority to do what's being asked, to sell single glasses of wine. We can do the tastings, we can do the wine sales, we can help promote the wineries, we have that much authority, but I'd specifically like to ask Council to review the alcohol policy maybe for some changes regarding glasses of wine and supporting the wineries.

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CHAIR MICCICHE: I have a question of Staff. The parking requirements that are related to the area, there are designated ones for the retail store next to Café Rouge?

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RANDY TSUDA: Yeah, these are purchased through the parking district.

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CHAIR MICGICHE: Okay. Since most of those establishments close at a certain time, is the policy flexible to say that after a certain hour that they're more open to an area?

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parking," and in order to approve that they would need to restrict the hours of operation for the other businesses in that center. That's done through a conditional use permit process whereby the Commission can impose those limitations on the hours, therefore we have assurance that those businesses will not change their hours, will not begin to utilize the parking during (inaudible).

CHAIR MICCICHE: If an agreement could be made with them to do something like that, could we relook at this for additional seating after that time?

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RANDY TSUDA: They can come back. It's another conditional use permit application that needs to be agreed to by the property owner and all the other tenants of that building.

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amount of parking associated with it, and if that parking is available after 6:00 o'clock, then negotiate some firm contract or change in modification to the CUP to accommodate it, is that correct?

RANDY TSUDA: Right. What it means is, let's say one of those spaces changed over to another retailer, that retailer could not operate, say, after 6:00pm.

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CHAIR MICCICHE: Right. So they would have to agree, and probably the landowner would have to agree, and

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is that perhaps it would If one of these properties vacated and someone else wanted to come in, and they gave extra classes If it was so forth. But without that agreement there is nothing that but the it's going to prevent that from happening. Or then also be open during retail during could do then? Do you understand what I'm asking? after... I mean I don't know, I'm making this up. gives special ф ф comment I would have on that, Phil, COMMISSIONER TALESFORE: like the makeup plade, maybe she after hours, eliminate someone... Christmas season. lessons 10

CHAIR MICCICHE: Are you saying it's not up to me? I've already said that.

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COMMISSIONER TALESFORE: I'm saying that I don't know about the question.

CHAIR MICCICHE: It would be up to the individuals who have the present CUP. I would ask the owner to look at that before he came back and then asked for more seats.

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COMMISSIONER TALESFORE: I wonder if we're asking ourselves (inaudible).

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CHAIR MICCICHE: I don't think so, no. I'm just trying to solve an issue that can be solved, okay?

COMMISSIONER TALESFORE: (Inaudible).

interesting to contemplate in the future. It takes, as Mr. Tsuda said, a whole new set of applications and an agreement

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Let me just simply say that's all

ORRY KORB;

LOS GATOS PLANNING COMMISSION 6/28/2006 įtem #3, 42 Elm Street

to back it up. There is precedent for that by the way, because that was done at Campo di Bocce, but it was a fairly complex operation, but that's not before you tonight. You have a very clear issue before you tonight and parking is restricted.

CHAIR MICCICHE: I was just doing it for the re. In any event, any other comments? John.

COMMISSIONER BOURGEOIS: I'm going to go ahead and make a motion.

CHAIR MICCICHE: Go ahead.

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COMMISSIONER BOURGEOIS: I'd like to make a motion to approve Conditional Use Permit U-06-20 only for a wine tasting bar and retail wine sale on property zoned C-2. Should I get a second before I make the motion or I make the findings?

CHAIR MICCICHE: That's fine. You got a second.

ORRY KORB: And just for clarification, that's a

recommendation for approval.

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COMMISSIONER BOURGEOIS: So since it's a recommendation I still need to make all the findings, right? CHAIR MICCICHE: Yes.

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COMMISSIONER BOURGEOIS: Okay. So I could make the findings that as required by section 15301 of the State Environmental Guidelines that the project is categorically exempt, and that under section 2920.190 of the Town Code for granting conditional use permit that this body finds that

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it's an existing business that is successful. Proposed product is in harmony so I don't need to make those findings product is and welfare consistent with the redevelopment plan for central Los Gatos policy requires... No. So we're going to stick with 10:00pm tonight, and based on our Staff Report, that the proposed will not impail the integrity or character of the and that the town's alcohol based on the evidence of the hearing that we've heard 엉 fact that local wineries are in support uses are not detrimental to public safety, health, the general plan and the the public convenience that because it's not going past 10:00pm, and and that the proposed the various elements of redevelopment project area. purposes of the Town Code, for property is desirable as in the conditions, welfare, the цo general this, based zone, with 10 14 11 12 13

RANDY TSUDA: And there's one other issue. We've heard testimony tonight about that tripping hazard with the loading zone and we talk about that in the Staff Report. I think I'll have Fletch give you some discussion on that

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no hiding that. I was out there for five minutes and saw two people, and so it's something that we would like to get addressed. The planter that we put out there was actually taken very quickly. And so there are two options spelled out in the Staff Report on page six, under 5A and B, and I would

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like to just have the Planning Commission weigh in and maybe include one of those, or some other option

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preference for one of those options? I mean if we recommend is there Does Staff have a landscaping and it's already been stolen once, COMMISSIONER BOURGEOIS: something we can do?

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different ways to do the landscaping. One is in raised pots; FLETCHER PARSONS: Well, you know, there's lot of solutions to this, and I don't know that engineering really to look like. It needs to one is to remove the concrete and actually plant in ground. We can go to just putting a bike rack in there to block range of different esthetic wants to get into what it's going be something that's maintainable. off. I mean there's a wide

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to recommend that it be improved as a I would be inclined as οĘ landscaping area to the satisfaction of the director COMMISSIONER BOURGEOIS: community development. part of this motion

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FLETCHER PARSONS: That's perfect.

a question. me ask Let COMMISSIONER O'DONNELL:

town put the ramp the Did

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FLETCHER PARSONS: The town did put the ramp in.

So the town put it in, it's a hazard, and we want the applicant to solve the COMMISSIONER O'DONNELL:

problem? Is that the position? 23 24

FLETCHER PARSONS:

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LOS GATOS PLANNING COMMISSION 6/28/2006 Item #3, 42 Elm Street

That's bizarre. COMMISSIONER O'DONNELL: We don't own the property PARSONS: FLETCHER

behind the ramp.

in, we put it But if COMMISSIONER O'DONNELL:

(inaudible).

We own the property where the ramp is located, but not the property behind FLETCHER PARSONS:

ರ್ಣ and breaks their neck and sues the city, we might

somebody falls down

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COMMISSIONER O'DONNELL:

something to remedy it, right? So we have to wait for

somebody to...

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begin with for that purpose. So if we're working toward that But at the same time, if it's direction, I don't see where they're really incompatible. working toward at some point getting extra seats. I mean sort of landscaping divider there to separated by landscaping, something is done, and we're FLETCHER PARSONS: they proposed some

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It looks like landscaping is the CHAIR MICCICHE:

consensus

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FLETCHER PARSONS: Landscaping is what we'd like There was initially a bike rack placed behind this to keep it we had to We were required zone and a loading when the ramp was put in. because this area is see. ç

g Do we have a consensus CHAIR MICCICHE:

landscaping it?

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open.

LOS GATOS PLANNING COMMISSION 6/28/2006 #3, 42 Elm Street

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COMMISSIONER O'DONNELL: I don't. I think it's wrong to have an applicant correct our mistake at the applicant's expense, so you guys can do what you want on that, but I just want it to go on the record that I don't support that.

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CHAIR MICCICHE: You got the consensus. Okay, I'm going to call the motion.

COMMISSIONER KANE: Some discussion, Mr. Chairman? The motion has been made and seconded, and if Mr. Korb perhaps could guide me that this is the time and the place to do it, I'd also want the motion to go forward to the Council with the question on destination Los Gatos wineries, that we need something in the future.

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afoot, the people are coming down with their wines, and I don't want to just send this up to them as a neutral or a neutered issue, that we want some guidance on what may happen in the future. We can't rule with law that we don't have, and the future is now. And I wonder if we can get some clarification on the coming wine industry?

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ORRY KORB: Not from me, but I will tell you that your comments previously made and just made would be included in the record that would be sent up to the Council for its review, so your concerns are there and will be before them.

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COMMISSIONER KANE: Thank you

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CHAIR MICCICHE: I'd like to call the motion. All in favor? Against? Did I get an aye from you, Commissioner O'Donnell? Four-two!

ORRY KORB: The decision of the Commission is a recommendation to the Town Council. This will be heard by the Town Council at a future date. It will be noticed accordingly. If you have any questions about when that is, please contact the community development department.

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